City of Lafayette Staff Report

For:	City Council
By:	Greg Wolff, Senior Planner
Date Written:	September 15, 2008
Meeting Date:	September 22, 2008
Project:	**GP01-05 / RZ01-05 BRUCE TORQUEMADA, LAFAYETTE PROPERTIES, (APPLICANT & OWNER), R-15 ZONING:** Lafayette Park Terrace – Proposed ~~20-Unit~~ 18-Unit Condominium Project at 3235 Mt. Diablo Court, a 2-acre site at the terminus of Mt. Diablo Court. APNs: 233-131-020 & 022

STATUS

The City Council last considered this project on July 28, 2008. The staff report and meeting minutes from that meeting are attached to this report. Each of the Council Members had visited the inside living space of Lafayette Pointe units 30, 31 & 32 during the two weeks prior, in order to fully appreciate the views of the proposed building as illustrated by the story poles erected on the site. Council Member Anduri did not support the proposed multiple-family residential land use and increasing the density on the site, and therefore could not support the project. The remaining four Council Members indicated that they could support an appropriately designed multiple-family residential project on the site at or around the proposed density of 10 dwelling units per acre.

Council Members Andersson and Federighi indicated that the Council's previous direction to the applicant was to reduce the height and mass of the building, which they believed was done. They could support the project as designed, understanding there would be some impacts on the neighbors, finding it preferable to having multiple single-family residences spread over the site, with exposed driveways and surface parking.

Mayor Anderson and Council Member Tatzin continued to have concerns about the view impacts of the project on the closest and lowest condominium units at Lafayette Pointe. The consensus of the Council was that the project needed more work to address the concerns of the neighbors and Council relating to privacy and views for Lafayette Pointe, particularly units 30 & 31. The applicant expressed a desire to try to revise the plans to address the those concerns, and offered to look at moving the western building wall further east to provide for additional setback, light and air, and lowering the overall height of the building. The Council continued the matter to September 22, 2008 to allow the applicant to revise the project plans.

Subsequent to the July 28, 2008 the project architect met twice with staff, Mayor Anderson and Council Member Tatzin to review preliminary plans to see if the revisions were moving in the right direction. The result of the project architect's work is shown in the plans for the 9/22/2008 City Council meeting (attached). The plans show a significantly increased setback from the western property line at Lafayette Pointe and the upper story removed in that location. The project has been reduced from 20 units to 18 units accordingly.

Setback and Height Comparison

	Plans for July 18, 2008 Council Meeting	Plans for September 22, 2008 Council Meeting
Setback from property line at Lafayette Pointe	21-23-ft.	43-ft.
Distance from building to Lafayette Pointe Unit 30	40-ft.	61-ft.
Distance from building to Lafayette Pointe Unit 31	37-ft.	57-ft.
Height across from Lafayette Pointe Unit 30	31-ft.	20-ft.
Height across from Lafayette Pointe Unit 31	16-ft.	15-ft.

RECOMMENDATION

(1) Take testimony from the applicant & public; consider revised plans;
(2) Introduce Ordinance 580, waive first reading; and
(3) Continue the matter to October 14, 2008 for the second reading of Ordinance 580 and adoption of the Mitigated Negative Declaration and approval of the Project subject to conditions.

ATTACHMENTS

1. Project plans submitted for the July 14, 2008 & September 22, 2008 City Council meetings LABELED AND COLLATED FOR EASY COMPARISON SHEET VS. SHEET
2. July 28, 2008 City Council Staff Report & Meeting Minutes
3. DRAFT City Council Resolution 2008-035*
4. DRAFT Conditions of Approval*
5. DRAFT Mitigated Negative Declaration (unchanged from July 14, 2008 packet)
6. DRAFT Ordinance 580*
7. DRAFT Development Agreement (unchanged from July 14, 2008 packet)

* amended with strikeout-and-underline text to reflect 18 units instead of 20, new dates, etc.

PRIOR STAFF REPORTS & MATERIALS

Please see the July 14, 2008 and July 28, 2008 City Council meeting packets on the City of Lafayette web site for prior staff reports and materials on the subject application.

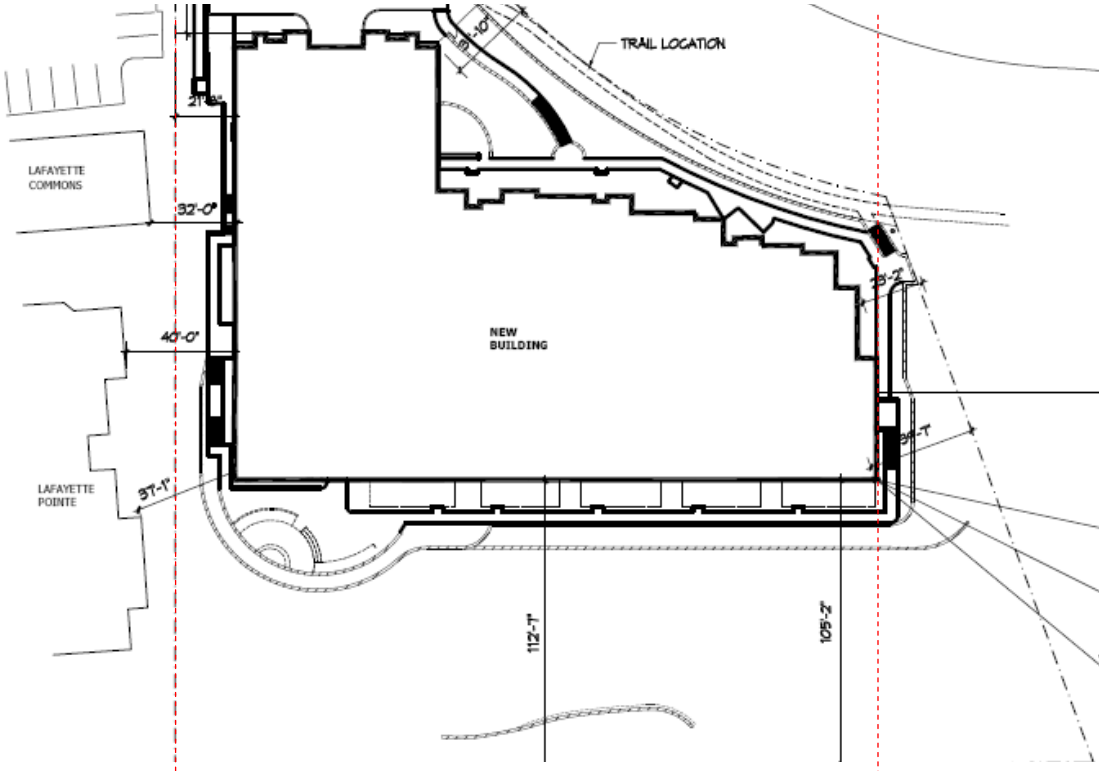


Fig. 1. Excerpt from Sheet A-1 • Plans for July 18, 2008 Council Meeting

←Reference lines by staff.

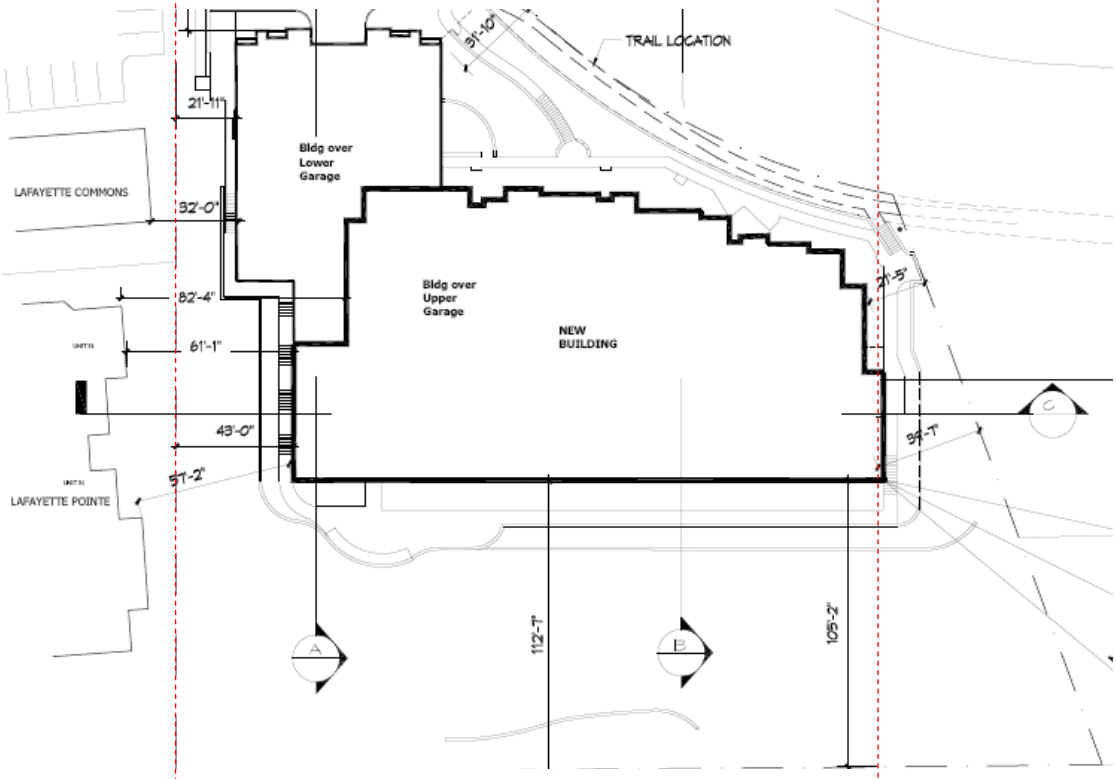


Fig. 12 Excerpt from Sheet A-1 • Plans for September 22, 2008 Council Meeting

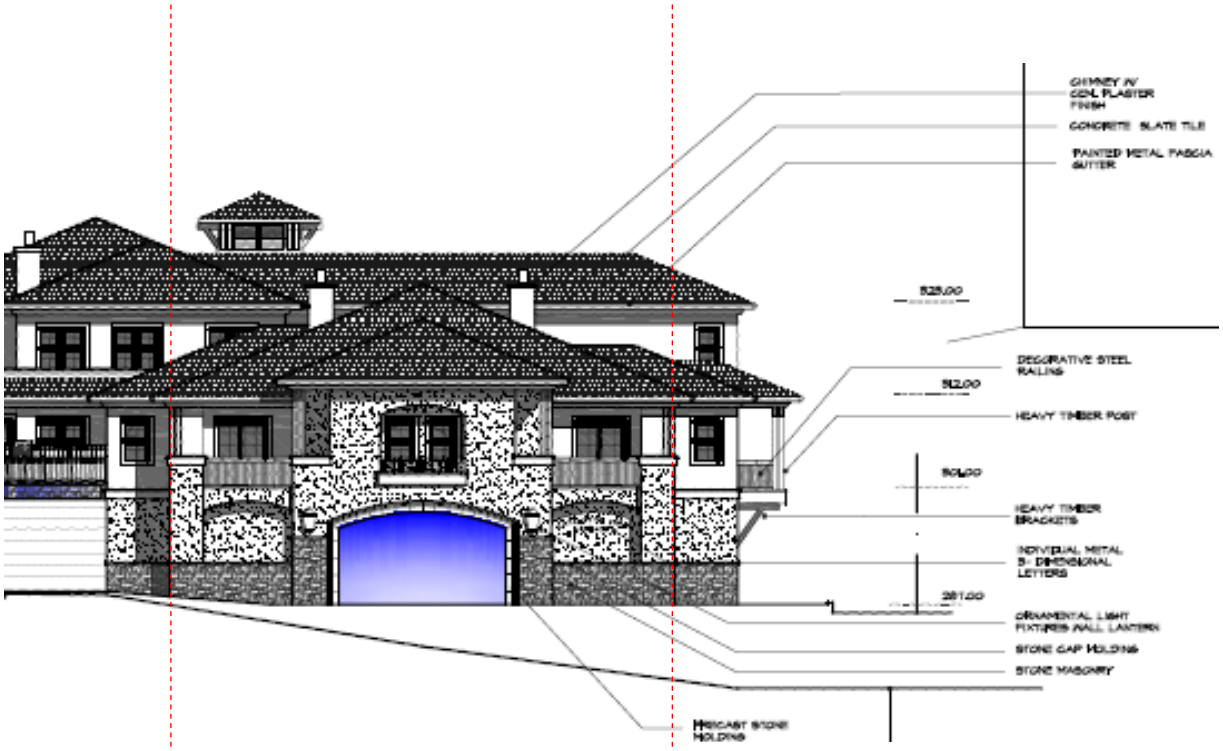
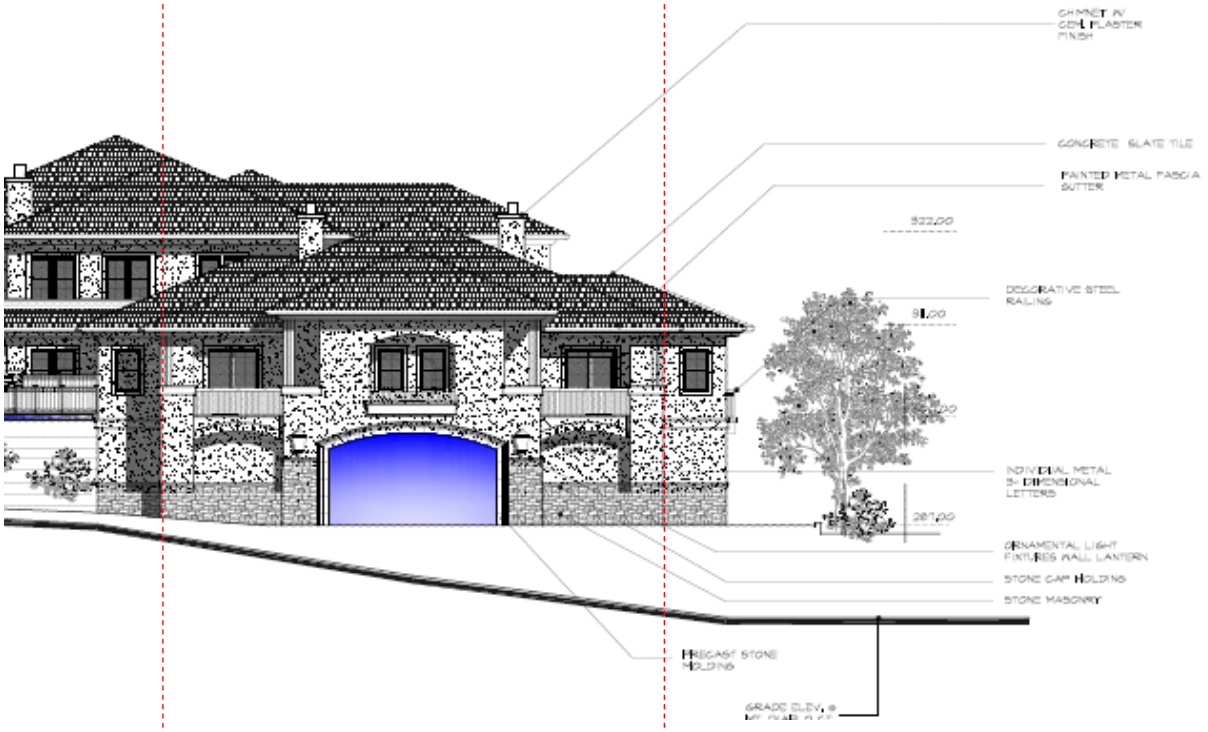


Fig. 1. Excerpt from Sheet A-6 • Plans for July 18, 2008 Council Meeting



←Reference lines by staff.

Fig. 12 Excerpt from Sheet A-6 • Plans for September 22, 2008 Council Meeting

City of Lafayette
Redevelopment Agency Special Meeting

MINUTES

Lafayette Community Center – Manzanita Room **July 28, 2008**
500 St. Mary's Road, Lafayette, California **5:45 p.m.**

1. CALL TO ORDER

Chair Anderson called the meeting to order at 5:55 p.m.

2. ROLL CALL

Present: Agency Members: Chair Anderson, Vice Chair Tatzin, Agencymember Andersson, Anduri and Federighi

Absent: None

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Mala Subramanian, City Attorney; Ann Merideth, Community Development Director; Tony Coe, Engineering Services Manager; Joanne Robbins, City Clerk

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Tatzin/Federighi) to adopt the agenda. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

4. PUBLIC COMMENTS – None

5. STAFF REPORTS

A. Ann Merideth, Community Development Director

1. Approval of the two public art proposals recommended by the Library Public Art Committee for the Outdoor Plaza Corridor and Children's Activity Deck
Recommendation: Approve the two public art proposals and authorize the Executive Director to enter contracts with the artists.

Community Development Director Merideth said the library project included funding for public art. The Agency engaged with the Oakland Museum, a Consortium member, to help with the project and that has been very helpful and a learning experience. Approximately four months ago, the Library Public Art Committee decided to have two commissions, and a call for entries was prepared for California artists. Over 130 submissions were received. Two selection panels were formed; one for the Outdoor Plaza Corridor and one for the Children's Activity Deck and panel members Erling Horn and Anne Grodin are present tonight. The art was narrowed down to 11 finalists.

Beginning on June 9, the art was on public display for two weeks, and 100 comment cards were received. The selection panels met to hear presentations from the artists, and last Thursday, the Library Public Art Committee reviewed recommendations from the selection panels under the

The public hearing was opened.

Public Comments:

JOHN FRANK, The Woodbury, LLC, thanked staff and was available for questions.

ACTION: It was M/S/C (Tatzin/Andersson) to close the public hearing and approve the applicant's request to pay the City's impact fees prior to the issuance of the certificate of occupancy rather than prior to the issuance of a building permit. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

2. **GP01-08: Resolution 2008-36 Amendments to sections of the Parks, Trails and Recreation Chapter of the Lafayette General Plan**
   Recommendation: Adopt Resolution 2008-36 approving amendments to the Parks, Trails and Recreation Chapter of the 2002 Lafayette General Plan.

Ms. Srivatsa said the Parks, Trails and Recreation Commission is in the process of adopting a Parks Master Plan and during the process, staff came across text in the Parks chapter of the General Plan that is inconsistent or outdated, and this evening's action is to rectify or correct text in the General Plan. She asked the Council to adopt Resolution 2008-36 approving the amendments.

Councilmember Anduri confirmed this request counts as 1, and the first, of the 4 General Plan Amendments per calendar year.

The public hearing was opened. There were no public speakers.

ACTION: It was M/S/C (Tatzin/Andersson) to close the public hearing and adopt Resolution 2008-36 approving amendments to the Parks, Trails and Recreation Chapter of the 2002 Lafayette General Plan. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

7. PUBLIC HEARINGS

A. Greg Wolff, Senior Planner

GP01-05 / RZ01-05 BRUCE TORQUEMADA, LAFAYETTE PROPERTIES, (APPLICANT & OWNER), R-15 ZONING: Lafayette Park Terrace – Proposed 20 Unit Condominium Project at 3235 Mt. Diablo Court, a 2-acre site at the terminus of Mt. Diablo Court. APNs: 233-131-020 & 022

Recommendation: 1) Continued review of project plans, take testimony from the applicant and public; 2) Introduce Ordinance 580 and continue to August 11, 2008 for second reading of Ordinance and adoption of the Mitigated Negative Declaration and approve Project subject to conditions.

Senior Planner Greg Wolff gave the staff report, stating at the conclusion of the last hearing, the Council identified four items it wanted further information and clarification on.

There was a submission of a letter from Lynn Hiden suggested that the site may not be appropriate for a multi-family residential development because of landslide and earthquake hazards. The City Engineer and staff requested the project use a technical engineer who would be most familiar with the borings that were done on site. On the dais is a packet and the City

Engineer's accompanying memo indicates he has reviewed NGO's letter and accepts their response and indicating that the conclusions and recommendations in the geotechnical exploration would not change; that information analyzed and used as a basis is consistent with the data supplied by Ms. Hiden.

The second issue was concern whether there would be impacts from excavation of the project on the row of redwood trees on the western property line. The matter was referred to the project arborist. A letter received this date indicates that he has reviewed the plans in detail and finds that the trees would not be adversely affected and would be preserved. Further, that the applicant has proposed a revision to the plan which would move the patio and retaining wall further from the trees to ensure the development is as far as possible from the trees on the subject property and most approximate to the development. Staff reviewed the letter with the City's arborist and he concurs with the content of the letter and the long-term viability of the trees.

The third issue was a recommendation for having a crosswalk and crossing phase as part of the traffic signal proposed at Mt. Diablo Boulevard and Mt. Diablo Court. The Circulation and Planning Commissions both recommend this, and therefore, staff is recommending an additional condition which would require this.

Last week, there was the desire on the part of Councilmembers to visit the Lafayette Point Condominiums closest to and most impacted by the project. Over the past two weeks, there have been three site visits and all Councilmembers have visited the site.

Staff is maintaining their recommendation that the Council take public testimony, review the items contained in the supplement and continue the matter to the next Council meeting for the second reading and adoption of the ordinance and adoption of the mitigated Negative Declaration and approval of the project, subject to conditions.

Councilmember Federighi said in the July 25, 2008 letter from Joseph Palonia that he recommends relocating the retaining wall in the area of the existing redwood trees along the western property line of Lafayette Point and also moving the outdoor terrace further away from the Lafayette Point neighbors, and suggesting it be added to conditions of approval. Mr. Wolff said staff would suggest language be added to the first condition: "In these conditions of approval, as amended by the Exhibit submitted for the meeting of July 28, 2008, "applicant" is Robin and Kris Leamy, or their successors and assigns."

Vice Mayor Tatzin disclosed that he visited the Lafayette Point sites units 30, 31, and met with the residents and applicant. Mayor Anderson disclosed his visit, as well as Councilmembers Federighi and Andersson.

Councilmember Andersson confirmed that the trigger of the crosswalk would be triggered by a request to cross.

Vice Mayor Tatzin questioned and confirmed with Joe Bologna that under the current zoning, the side yard setback is a minimum of 10 feet in an aggregate of 25 feet, so a single family home could be 10 feet from the property line.

JOE BOLOGNA, Hollman Bologna Architecture and Planning, said the staff report completely answers all four issues which were to be returned, and the fourth issue regarding preservation of the redwood trees led them to discuss this in greater detail with their arborist. They felt it

would be best and extremely straight forward if they gave every redwood tree the same opportunity and keep retaining walls 12 feet away from every tree. There were additional comments Mr. Moore would like to make regarding supplemental issues and he presented one slide from the last meeting that shows the density of the project.

Mr. Wolff agreed that the minimum side yard setback in the current zoning is a minimum of 10 feet and the minimum side yard in the proposed MRA zoning is 10 feet, as well.

AL MOORE, Land Use Attorney representing the Applicant, Danville, said they concentrated tonight on the four item reflected and could answer any questions of the Council.

Vice Mayor Tatzin questioned what Mr. Bologna's initial thoughts were in designing the best project for the site. Mr. Bologna said they tried to balance the three different critical criteria that they found in the zoning and from staff; do the least amount of excavation, bring the building down as low as they could on the hill, and try to be able to keep the building as compact as possible so they were not chewing up the site with a lot of parking. He said realistically they could push the building to all of the setbacks on all three sides and to the rear going up with a 6-tiered building on the hill, and they were told this was not a smart way to develop in this location.

Councilmember Federighi noted the letter states the terrace is being moved further away from Lafayette Point neighbors and she questioned and confirmed it would amount to 6 feet.

Public Comments:

LYNN HIDEN asked to know how many borings were done, asked to recommend that the public hearing be continued to another date because the minutes were not included in the Council packet from July 14, 2008.

GUY ATWOOD presented a total of 60-65 new petition signatures against the project, distributed pictures of another complex of 6 units to compare the look of what would be more compatible with the homes in transition to the development nearby, said there was a comment made that most of the things considered had to do with view, and if this is true, then he felt the neighbors have done a poor job in communicating their concerns. He identified concerns in addition to views, which include: affordability, the need to locate the project in the downtown for resources, circulation issues, landscaping, noise, lack of transition, and effects on environment, soils removal, open space removal and other concerns.

Councilmember Anduri confirmed that concerns regarding driveway access had to do with those coming from their driveways from the project during peak periods.

CAROL GRAY said she is a single family homeowner in the area, submitted a letter with many concerns relating to the mitigated Negative Declaration, the size of the units, said the height has only been reduced 6 feet, total square footage has only been reduced by 3,000 square feet or less than 10% of its original size, the location is not pedestrian-friendly, excavation and preservation of open space.

Councilmember Federighi noted the zoning was not open space, and Ms. Gray clarified that her desire is that the residents contribute to the feel of the community and she discussed the quality of the City's rural environment.

Councilmember Anduri said the zoning allows for 12 single family homes on the property and he questioned if Ms. Gray would think there would be more open space than this condominium development. Ms. Gray felt with 12 homes, there still may be some restraining factors such as setbacks and buildable land and she felt the lot was very steep. She a supported but did not think this plan was right for the property.

KRISTA MCGUIRE, Pleasant Hills and Valley Association of Homeowners, voiced opposition to the project, its impact to the hillside and environment, asked that the height not exceed 35 feet, the project design be less visible, reducing the mass and bulk making the actual footprint smaller, that the City not set a new procedure of allowing such large soil excavation on hillsides, voiced opposition to the traffic signal, the General Plan calls for protection of residential neighborhoods, privacy and quality of life and this project does not fit within the General Plan, and the previous condominium project immediately to the west was approved on the basis that it would not be influencing further growth and neighbors were assured by the City and the applicant that they would be protected from future development.

VIVIENNE HING reiterated her opposition to the project, echoed comments of the previous speaker, and thinks it would be great to focus on downtown locations for high density projects.

BECKY COURTER opposed the project, said the applicant has failed to submit a project that works in the neighborhood, that makes a good transition, opposed its bulk, mass, view and privacy impacts, and she asked the Council not to amend the General Plan to fit in what a developer proposes.

KATHY SKOVSARD said she lives in Unit 31, thanked the Council for visiting her unit, acknowledged Mr. Bologna's late alteration to the small common area which would have been close to her bedroom window by 6 feet, said all of her windows face the hillside and her approach is not because she will lose her view but she will be losing her quality of life, and hoped the Council will reject the project.

DEBORA PEVERADA said she and her sister thanked the Council to visit their homes, and asked the Council if they want to be remembered as Lafayette Council who championed for preserving the rights of the 32 homeowners at Lafayette Point and surrounding neighbors regarding their investment, intrusion of privacy and quality of life, or does the Council want to have little or no regard for residents and closed its eyes and ears to the fact that their investment, loss of privacy and quality of life will be greatly affected. And, she questioned how residents could support taxes when residents are receiving support in their quality of life through various measures.

GEORGE BURTT, Acalanes Homeowners Association, said they live at the opposite end of town, feels the request is a privilege and not a right, there is much concern from neighbors, and whatever the Council does with this application will affect their neighborhood. He sees a conflict between all parties and feels the project is overly dense and asked that the project be continued.

Councilmember Anduri referred to Mr. Burtt's statements that the project is over-dense and he questioned the reason it is bad. Mr. Burtt said the project has many mitigations associated with it and many of these would not be present had the project be proposed as 12 units, cited extensive excavation, traffic issues, and others.

Councilmember Federighi said the adjoining uses are denser than this project, and Mr. Burtt said physically, it is becoming a long wall thicket, the developer has the right to request a General Plan Amendment, but at some point things get too big and impacts things around it. His neighborhood will also be subject to this same rationale and logic when the applicant of their surrounding 62 acres comes forward and the entire City will be impacted as a result.

MARCI MONTGOMERY requested the Council vote against the project, asked that residents be served by its elected's, cited the significant non-support of the plan and also fire hazards.

GREG WOEHRLE said he has followed the project, is in support of it, said it may be changed and with the right set of conditions of approval, the project will work.

SVETLANA YANKIN discussed the visit by the Council to their property, believed trees would be damaged, branches would die and fall down, cited privacy issues, excessive excavation, dust and noise, and asked the Council not to approve the project.

ANDREY LANKIN noted the significant opposition to the project, cited privacy impacts, asked that the height of the project be lowered, damage and instability of the soil and trees due to excavation, and asked the Council not to approve the project as proposed.

SCOTT HINZ said he is completely opposed to the project and cited its significant opposition by residents at the Lafayette Point.

JOE BOLOGNA, Hollman Bologna Architecture and Planning, reiterated the Design Review and Planning Commission's approvals, discussed the project's many reductions per direction and request by the City, the subdued lighting plan, and arborist comments and verification that trees would not be damaged.

AL MOORE, Land Use Attorney representing the Applicant, Danville, quoted from the staff report, cited the Planning Commission's support, independent reviews, and its lengthy process.

Vice Mayor Tatzin referred to the percentage of reduction for the project, questioned the statement of how the area goes down to 11,800 from 44,000 square feet and it being a 72% reduction, and he confirmed it was actually a 27% reduction. He asked how the ridgeline has changed in terms of feet above sea level.

Mr. Bologna said the bottom of the building was buried in the ground by 3-4 feet and the roofline came down by 10 feet, and they now have a 9 foot high garage.

The public hearing was closed.

Vice Mayor Tatzin asked the applicant to summarize affordability levels of the project. Mr. Wolff said the applicant would cover 15% of the units, or 3 units. Two units would be at moderate income levels and one would be at the low income level. The remaining would be sold as market rate.

Vice Mayor Tatzin questioned trips per hour per unit and traffic impacts. Mr. Wolff said he would need to refer to the traffic study, but said it would be 1 per peak hour per unit, or roughly three minutes.

Councilmember Anduri referred to the most recent letter from Guy Atwood which refers to the understanding when the Lafayette Point Condominiums were approved and that its approval would not be growth-inducing and surrounding parcels cannot be developed than higher than current allowable densities which would cause an increase in traffic, noise and pollution. He asked if there were any conditions of approval or simply an understanding. Mr. Wolff said staff has not researched the approval on the adjacent property and statements made by the Commissioners or the Council at that time. Staff evaluated the project on its merits irrespective of this, but could return with the information to the Council.

City Attorney Subramanian voiced concern in considering evidence from a prior approval as to the current project approval, as there were different staff, Council and Planning Commission members and recommended the Council consider the project on its current merits.

Councilmember Anduri said this was understood when the General Plan was approved and the new General Plan called for 6 units per acre. Mr. Wolff said the General Plan update began in 1991 and the previous plan was adopted in 1974. The approach at 1991 was not to comprehensively study or make changes to the existing General Plan land use map with the exception of Rural Residential. With respect to multi-, single family, and commercial development, there were no studies or changes made.

Councilmember Federighi asked if part of this was a belief that a change in designation should not take place until there was an appropriate project, and Mr. Wolff said he believes this was part of the rationale.

Councilmember Anduri said he agrees with this, and when he was on the Planning Commission there were several individual properties that came up and the Commission said it was not going to deal with it as part of the General Plan and they were considered as individual projects, but this property was not one of them.

Vice Mayor Tatzin said it was traditional in subdivisions that the Council would include a provision saying that no further subdivision would be allowed but questioned whether or not this was enforceable. Therefore, they stopped putting this in the applications.

Mayor Anderson believed the trip to Lafayette Point was informative, he thanked residents for allowing the Council to visit, he was concerned on the effect of Unit 31 with the height of the building and roofline. He believed privacy and view issues should be considered and also how important the trees are with privacy.

Councilmember Anduri believed in Lafayette there will be situations where people are able to look into windows given density in the current General Plan, but what makes this property different is the expectation of the residents apart from what happened when Lafayette Point was established. Residents moved into the development understanding that the property next to it was not a transitional property but one zoned for single family residential use, and a “bigger box” is not necessarily acceptable. He finds the project very difficult because Lafayette needs to move to higher densities in the areas along Mt. Diablo Boulevard. He also understands the issues raised by additional traffic, disagrees with Mr. Atwood’s characterization of ABAG, likes the way parking has been handled, thinks the traffic lights serve the purpose of slowing traffic, noted the Design Review and Planning Commission support the project, but he believes it is outweighed by the expectation of the neighbors. It is not so much a density issue but the character of the property has changed from what would be seen in a single-family residential development and he cannot support the project.

Councilmember Andersson referred to letters relating to expectations of future development or non-development, there is a right for 12 units, there are many single family homes 20 or 30 feet of their neighbors, he sees leaving the upper part of the property in its natural state and the lower property developed which he believes is a significant advantage and thinks this is the trade-off made. Regarding view, he looked at the site from many areas, he does not believe it will be any more noticeable than the surrounding structures. Regarding the view from Unit 31, the owner will see the building but looking down at it. He discussed a radio test and said he did not believe sound would result in an impact. Regarding distances of single family versus multi-family, it is higher density multi-family situation but it leaves a buffer, and he agrees that the trade-off in a few extra units and leaving the upper part natural works.

Councilmember Federighi agrees with Councilmember Andersson, said the development is similar to clustering rather than spreading out homes on the property. She did not believe the development as an entrance to Lafayette was imposing, said the adjoining properties are multi-family, acknowledged the buffer of the hill that protects the single-family home, did not know what to think about the expectations of the neighbors and acknowledged concerns of Units 30 and 31. She said the direction the Council gave was to reduce the mass, height and she believes this has been accomplished and she said she could support the project.

Vice Mayor Tatzin said he did not envision this as a transition to Lafayette Point to a single family level, felt the project initially was a continuation of what Lafayette Pont was, with the exception of shared parking. He compared this with the option of 6 single family units with second units and feels the idea of having a single building is better. He also acknowledged impacts of Units 30 and 31, noted the site is complex, and he thought the mass and bulk of the building might still be too great, but was not sure whether to suggest a modification or to deny without prejudice and let the applicant figure out what to do next. What has been demonstrated to him is that having a single building is better than a series of single family homes.

Mayor Anderson believed the project needs more work, voiced concern with residents of Units 30 and 31 and suggested something be done to recognize those homeowner concerns, especially Unit 30. He felt there was enough room on the site to give people more of what they have now in terms of view and privacy other than an adjacent building and suggested something more creative. He was inclined to not continue the item but deny without prejudice and allow the applicant to return to the Council to make further improvement, such as the upper floor of the edge of the building set back or lowered to reduce the impact to Unit 30.

Vice Mayor Tatzin suggested setting it back further, but lowering it would require substantial changes to the garage structure. Mayor Anderson reiterated the impact to Unit 30 and he agreed something should be done to address it, and Councilmember Andersson confirmed the focus is on the top floor in the corner of that building. Councilmember Federighi agreed that the downstairs children's bedroom view is a great impact and elsewhere there is still the view of the hill and she questioned the direction to give to the applicant. Councilmember Andersson suggested the applicant bring back a modification to bring the corner down and back and suggested the item be continued versus denial without prejudice.

City Attorney Subramanian said she would recommend a continuance and said the applicant has indicated they could bring the modification back and the Council would not introduce the ordinance tonight.

Councilmember Anduri said the zoning is for 6 single family units per acre, but he did not believe they could fit on the site. He looks at it as getting a density bonus if the applicant were to build a condominium project with 12 units in it.

Vice Mayor Tatzin confirmed the zoning was 6 units per acre, up to 12 single family residences on 2 acres.

ACTION: It was M/S/C (Tatzin/Andersson) to continue the item to September 22, 2008. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

C. Christine Sinnette, Senior Planner
MS504-87CCII – ROBIN AND KRIS LEAMY (APPLICANTS & OWNERS), R-40 ZONING: Request for a minor subdivision to divide 19.23 acres into three lots for residential development pursuant to Chapter 6-20 and Chapter 6-30 of the Lafayette Municipal Code (LMC), located at 4123 Happy Valley Road, APN 247-010-019 and 020 ("Project"). City Council review and consideration of a supplement to an environmental impact report, the Project, and conditions of approval.
Recommendation: 1) Conduct public hearing; 2) Consider supplement to an environmental impact report, the Project, and conditions of approval; 3) Continue to the meeting of August 11, 2008.

EXTEND MEETING

ACTION: It was M/S/C (Tatzin/Andersson) to extend the meeting to 12:40 p.m. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

Senior Planner Christine Sinnette gave the staff report, described the project, said in 2006 and 2007 the Planning Commission considered the subdivision, but last August the project was put on hold pending additional geotechnical studies. The studies confirmed that a previously identified landslide encompassed a larger area than originally thought and the applicant revised the project to include repair of the landslide, thereby necessitating a Supplement to the EIR (SEIR) rather than an Addendum. The Draft SEIR was reviewed in June by the Planning Commission. The Commission recommended that the Council adopt the EIR and approve the subdivision subject to conditions of approval. Staff is asking that the Council focus their review on whether or not the Supplemental EIR sufficiently identifies the potential environmental impact and the methods to avoid or reduce those impacts, the adequacy of the EIR, and scope of the project. Staff believes the Supplemental EIR presents all relevant information and reaches a conclusion regarding impacts and mitigations. Staff is recommending the Council conduct the public hearing and continue the matter to August 11, 2008.

Councilmember Anduri said he was not present at the previous meeting but read the entire report and complimented staff on the report. He discussed the history of the project, and questioned which conditions of approval will protect neighbors relating to slide impacts. Ms. Sinnette noted this is addressed as Mitigation Measure 5 and Condition 43. She discussed the landslide on parcel B and explained that the City had a peer review of all materials. Last August, additional studies were done with the scope being agreed to by the City Engineer, Alan Kropp and the engineer of record. The study indicated the slide was larger and Mitigation 5 mandates that prior to the Final Map being approved by the City, they will have to confirm the location is the one identified and then prepare the plan to fix the slide. However, the applicant is not required to fix any off-site slide and the landslide on-site will be repaired by a buttress system which will prevent it from moving onto the downhill property.

CONTINUED TO 9-22-08
LAFAYETTE CITY COUNCIL
CITY CLERK DATE 7-28-08

City of Lafayette Staff Report

For:	City Council
By:	Greg Wolff, Senior Planner
Date Written:	July 22, 2008
Meeting Date:	July 28, 2008
Project:	**GP01-05 / RZ01-05 BRUCE TORQUEMADA, LAFAYETTE PROPERTIES, (APPLICANT & OWNER), R-15 ZONING:** Lafayette Park Terrace – Proposed 20-Unit Condominium Project at 3235 Mt. Diablo Court, a 2-acre site at the terminus of Mt. Diablo Court. APNs: 233-131-020 & 022

STATUS
The City Council considered last considered this project on July 14, 2008 and continued the matter to July 28, 2008 requesting the following:

1. **Response to the letter from Lynn Hiden suggesting the site may not be appropriate for multiple-family residential development because of landslide & earthquake hazard.**
   Staff requested input from the City Engineer on Ms. Hiden's letter along with the Geotechnical Exploration, prepared by EnGeo. The City Engineer asked Engeo to review Ms. Hiden's letter and prepare a response for his review. The response from Engeo is forthcoming and will be provided to the City Council as soon as it is received.

2. **More information on the potential impact of excavation on the redwood trees along the western property line.**
   The project arborist is preparing a response review specific to this question which will be reviewed by the City's consulting arborist. The response from the project arborist is forthcoming and will be provided to the City Council as soon as it is received.

3. **Information on whether a crosswalk will be part of the signal design at Mt. Diablo Boulevard & Mt. Diablo Court.**
   The Circulation Commission recommends a crosswalk & pedestrian phase as part of the signal (when triggered by a pedestrian). A new condition S10, could be added stating that there will be a crosswalk and pedestrian phase as part of the signal.

4. **Each City Council Member desired to visit the Lafayette Pointe condo units closest the project to view the story poles from the units.**
   Planning staff has coordinated site visits by Council Members to the Lafayette Pointe condominium units closest to the Lafayette Park Terrace project - Ms. Skovgard (Unit 31) and Andrey Yankin (Unit 30).

9A

RECOMMENDATION

(1) Take testimony from the applicant & public; review responses on items listed above
(2) Continue the matter to August 11, 2008 for the second reading of the Ordinance and adoption of the Mitigated Negative Declaration / approval of the Project subject to conditions.

ATTACHMENTS

1. Letter from Carol & Mike Gray, 3234 Alta Lane • July 21, 2008
2. Letter from Linda Murphy, 1025 Buchan Drive • July 21, 2008
3. Letter from David & Vivienne Portnoff, 3323 Alta Lane • July 21, 2008
4. Letter from Becky & Jeff Courter, 1059 Pleasant Hill Road • July 22, 2008

City of Lafayette Memorandum

RECEIVED
JUL 2 8 2008
CITY OF LAFAYETTE
PLANNING DEPT.

To: Greg Wolff

From: Tony Coe

Date: July 28, 2008

Subject: Lafayette Park Terrace- Engeo Letter dated July 22, 2008

I have reviewed the subject letter by Engeo, which responds to concerns raised in a letter by Lynn Hiden dated July 13 about earthquake and landslide hazards affecting this project. I accept Engeo's response. Additionally, given the City's practice of incorporating recommendations by the project geotechnical engineer as either project mitigation measures or conditions of approval, I have no further comments.

ENGEO INCORPORATED

GEOTECHNICAL
ENVIRONMENTAL
WATER RESOURCES
CONSTRUCTION SERVICES

Project No.
7392.100.101

July 22, 2008

Mr. Steve Stone
Lafayette Properties, LLC
1465 Homestead Avenue
Walnut Creek, CA 94598

Subject: Lafayette Park Terrace
Lafayette, California

RESPONSE TO COMMENTS

References:
1. Lynn Hiden, The Torquemada Application Letter; Lafayette, California; July 13, 2008.
2. ENGEO Inc., Geotechnical Exploration; Lafayette Park Terrace, Lafayette, California; July 24, 2006; Project No. 7392.1.001.01.

Dear Mr. Stone:

At your request, we have reviewed the letter prepared by Lynn Hiden pertaining to nearby faults and landslide potential at the Lafayette Park Terrace, dated July 13, 2008 (Reference 1). We have the following response.

From a review of the Reference 1, there appears to be two concerns related to the Lafayette Park Terrace site; (i) nearby faults and (ii) landslide potential.

Nearby Faults

The nearby faults, including those identified as active by the State of California and those not classified as active by the State of California, but identified during regional mapping by Graymer, Crane and Dibblee, are discussed in the Lafayette Park Terrace Geotechnical Report (Reference 2). The proximity of these faults to the subject site are also provided on Pages 3 and 4 of the Geotechnical Exploration report based on the published maps, which appear to be similar to the maps cited in the Lynn Hiden Letter (Reference 1). In our opinion, the characterization, location and recommendations for the nearby faults and their potential impact on the site, as stated in the referenced geotechnical report, remain valid.

While no active faults are identified on the subject site, it is anticipated, as discussed in the Geotechnical Exploration Report, that an earthquake of moderate to high magnitude generated within the San Francisco Bay Region could cause considerable ground shaking at the site and to mitigate the shaking effects, all structures should be designed using sound engineering judgment and the latest California Building Code (CBC) requirements, as a minimum.

Landslide Potential

As indentified in Draft Environmental Impact Report for the General Plan (Figure 9, Relative Slope Stability Map), provided as an attachment to Reference 1, the site is identified in "Areas of known slides and ground highly susceptible to sliding." In the Geotechnical Exploration Report for the Lafayette site, the potential for landsliding on the site is identified, and a review of published maps and subsurface exploration was completed to address potential slope stability concerns. In the Geotechnical Exploration Report, landslide mapping by Nilsen was reviewed and no landslides were mapped on the site. In addition, no landslides were identified during the subsurface exploration, which included test pits and borings. Grading recommendations provided in the Geotechnical Exploration Report consider the sloping nature of the site.

If you have any questions, please do not hesitate to contact us.

Very truly yours,

ENGEO Incorporated

Eric Harrell, CEG
eh/smc

Donald E. Bruggers, GE

REGISTERED PROFESSIONAL ENGINEER
DONALD BRUGGERS
No. 2094
Exp. 12/31/2009
GEOTECHNICAL
STATE OF CALIFORNIA

Greg - Please see my email to you -

City of Lafayette Memorandum

To: Tony Coe, City Engineer

From: Greg Wolff, Senior Planner

Date: July 15, 2008

Subject: Lafayette Park Terrace – Seismic & Geotechnical Review

---

Last night the City Council considered the Lafayette Park Terrace project. The attached letter was submitted by Lynn Hiden yesterday, suggesting that, based on her attachments, the Lafayette Park Terrace site might not be appropriate for the proposed development, from a seismic or geotechnical standpoint (earthquake hazard & landslide hazard). The City Council desired to have Ms. Hiden's information reviewed in light of the Geotechnical Exploration, Lafayette Park Terrace, prepared by EnGeo Geotechnical & Environmental Consultants, July 24, 2006.

Could you please review the attached documents and draft a memo for the next City Council meeting? My staff report will be due to the City Clerk on Monday, July 21, 2008.

Thank you.

ATTACHED

1. Letter from Lynn Hiden, received July 14, 2008 with attachments
2. Geotechnical Exploration, Lafayette Park Terrace, prepared by EnGeo Geotechnical & Environmental Consultants, July 24, 2006

July 21, 2008

RECEIVED
JUL 2 1 2008
CITY OF LAFAYETTE

Lafayette City Council
3675 Mt. Diablo Blvd. Suite 210
Lafayette, CA 94549

Re: Development and rezoning on Mt. Diablo CT (GPO1-05/RZ01-05)
APNs: 233-131-020 & 022

Dear Mayor and City Council Members,

First of all, thank you for considering carefully this proposed development, and for continuing on into the late hour at the last meeting on July 14.

We have, in past letters and in attendance at Design Review and Planning Commission meetings, expressed many concerns about the proposed development. We continue to have the same concerns, and feel that due diligence on the part of the City and the developer is needed to ensure that this proposed development, if approved, will be a successful project which will be appropriate, completed, and well maintained, ten years and further in the future.

One question which came up at the July 14 meeting was what changes in size had been made since this was last considered in September of 2007. I have attached excerpts, cut and pasted, from two documents which address this question. The fist is a letter from GagenMcCoy, received August 27, 2007, for the City Council Hearing September 10, 2007. In this letter, on the second page, it is stated:

"unit count has reduced the **mass and square footage of the residential building**... to **36,539 sq. ft.** ... and has reduced the **height** of the project... **to 49 ft."**

In the Staff Report EXECUTIVE SUMMARY of July 14, 2008, page 2, under PROJECT DATA, BLDG FLOOR AREA SUMMARY:

1st Floor: 11, 421 SF
2nd. Floor: 22, 105 SF

This is a total **of 33, 526 sq. ft**. for the residential building, a **decrease of only 3,015 square feet**.

The EXECUTIVE SUMMARY states that **the height now measures 43 feet**. This is as of July 14, 2008. In the letter from GagenMcCoy, dated August 27, 2007, the height was stated to be **49 ft.** This **height is only six feet lower than the height proposal in September**.

Again, please note our earlier concerns, primarily those relating to changing the nature of Lafayette from semi-rural and residential; removing natural hillsides, and failing to prepare a properly documented EIR. We are also concerned with the precedent this might set. The General Plan and current zoning should not be changed without careful consideration.

Thank you and we appreciate you efforts in considering these issues,

Carol & Mike Gray

Carol & Mike Gray
3234 Alta LN, Lafayette

Carol & Mike Grey
Page 2 of 2, 07/21/08

Via Hand-Delivery on 8/27/07
Mayor Carol Federighi
City Council
City of Lafayette
3675 Mt. Diablo Blvd.
Lafayette, CA 94549

Re: GP01-05/RZ01-05: General Plan Amendment at Mt. Diablo Court
Bruce Torquemada, Lafayette Properties
City Council Hearing September 10, 2007

Dear Mayor Federighi and City Council members:

The Project Has Been Significantly Reduced

Through all the meetings and public hearings, Lafayette Properties took very seriously the comments made at the Joint Study Session. Through this application process, the underlying project has been reduced from 40 units, down to the currently proposed application of 28 units.[2] This significant reduction in unit count has reduced the mass and square footage of the residential building (from *52,000 sq. ft* down to *36,539 sq. ft.*), and has reduced the height of the project (from *65 ft.* to *49 ft*).

[1] The views of the City Council, Planning Commission and Design Review Commission are set forth in the Minutes of the Joint Study Session of April 24, 2006, and are further summarized in the Staff Reports for each hearing thereafter.
[2] Lafayette Properties proposed 40 units as part of its pre-application process with staff. At the time of the Joint Study Session, we showed an illustrative project of approximately 32 condominiums and common area.

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City Council
Staff Report

GP01-05 Lafayette Park Terrace
July 14, 2008

The northern lot is relatively flat and has an existing single-family residence which will be removed as part of the project. The southern lot is an up-sloping hillside from north to south and is currently vacant. From the existing house pad at elevation 280', the hillside slopes up to an elevation of 350' over a distance of 235-ft. yielding an average ~30% slope along this section.

HEIGHT
Section 6-313 LMC defines building height as "the vertical distance between the average of the highest and lowest grade at the lowest foundation wall (measured at existing grade or finished grade, whichever is lower) and the (1) highest point of a flat roof or (2) deck line of a mansard roof or (3) average height of the highest gable of a pitched or hip roof." Using this definition, the building height is measures 43-ft. (reduced from ~56-ft. in the three-story, 32 & 28-unit designs). The calculation is based on existing grade at the entrance to the building which will be built up approximately 4'-5'.

PROJECT DATA:

BLDG FLOOR AREA SUMMARY:

Garage:	21,107 SF
1st Floor:	11,421 SF
2nd. Floor:	22,105 SF
Total:	54,633 SF

DWELUNG UNIT DISTRIBUTION:

1 Bedroom - 3 Units
753 SF to 997 SF

2 Bedroom - 11 Units
1084-SF to 1551 SF

3 Bedroom - 6 Units
1552 SF to 1993 SF

Source: LPT Project Plans, Sheet A-1

Page 2 of 2 07/21/2008

July 21, 2008

RECEIVED
JUL 21 2008
CITY OF LAFAYETTE
PLANNING DEPT.

To: Lafayette City Council
From: Linda Murphy
Re: Lafayette Park Terrace – Proposed Project

I attended the July 14 meeting about the proposed general plan amendment and proposed new condo project at Mt. Diablo Court. As you know, it was a long meeting. Although I was able to spend several hours attending the 7/14 meeting, I will not be able to attend the 7/28 meeting. I have two comments I would like you to consider:

One: The visibility of the propose project both from the hwy 24 offramp at Pleasant Hill Road south and from Deer Hill Road is masked largely by the group of trees that border the freeway offramp. Those trees do not appear healthy at all. Additionally, those trees are not on the property where the proposed development is to occur. When those trees die or are removed, the project will have a far greater visual impact than anyone anticipates. If this project is going to be approved, I urge you to require as a condition of approval planting of vegetation/screening on the parcel to block views from the offramp and Deer Hill Road. The planting of new trees should be required before the project is started, in order to give a head start to their growth. It appears that the council's primary concern is the impact on the immediate neighbors, but the planting to screen from neighbors does not address the wider visual impact of the project on the community. Although I support the concept of multifamily dwelling at this parcel and agree with staff on several reasons, given the bulk and mass of the proposed project, I oppose this current plan. Proposed alternatives would be two smaller buildings or downsizing individual condo units, whose current square footages exceed many of the houses in the area. Both would reduce the bulk and height of the project.

Two: The proposed traffic signal should be separately noticed and heard at public meetings. Residents of Lafayette are very sensitive about installation of new traffic signals. Many people who are entirely unaware of the proposed new signal at Mt. Diablo Blvd. and Mt. Diablo Court. The signal itself was not separately notice and advertised as stand alone item; rather it was of circulation meetings in late 2006/ early 2007, with the first meeting advertised about the circulation related to the project, and, of course, no additional notice was required for the second meeting. Installing a signal on such a prominent street in the city and such a large undertaking involving

expenditure of $75,000 of the city's redevelopment money and continuing funding by the city to maintain and operate the signal warrants that it be separately noticed and heard. I also think that the project has changed substantially from the original proposed project, which would also warrant a new circulation hearing on the proposed traffic signal.

The public comment and discussions related to other items at the July 14 agenda serve as a reminder that many residents are unfamiliar with how the city council operates. Many think these decisions are made without adequate public notice and input. Although the traffic signal technically was noticed, the notice was buried under a title related to a condominium project, making unlikely that many would have continued reading the fine print to realize it included a potential traffic signal.

I would strongly urge the city council to request the circulation commission to conduct a new hearing on the proposed installation of a traffic signal, which will be the fourth in a row – each just 1/10 of mile apart.

I attended the entire discussion of the project at July 14 meeting, and I think these two items warrant further discussion at next Monday's meeting. Thank you.

Thank you.
Linda Murphy
1025 Buchan Drive, Lafayette

3233 Alta Lane
Lafayette
CA 94549
July 21 2008

RECEIVED
JUL 2 1 2008
CITY OF LAFAYETTE

City Council
City of Lafayette
CA 94549

Dear Lafayette City Council Members,

Re: RE: GP01-05 RZ01-5 Lafayette Park Terrace proposed condominium project at the end of Mt. Diablo Court.

Many thanks for the time you have spent in listening and considering the impact of this project. We are writing to you today because we remain strongly opposed to this development primarily because of its location.

The intended location is a residential zone and all of the current homes in this area are single family residence. The design of this massive project fails to blend into the neighborhood and will therefore significantly change this entry into Lafayette from a green, tree lined exit to a standard overbuilt city exit. We do not believe this is beneficial to our immediate neighborhood or Lafayette as a City.

Furthermore the location and design means the building will be highly visible to the immediate neighbors whom will be severely impacted. We believe the development will drastically change their views and privacy, diminishing their quality of life. In addition, the current residents purchased their homes believing this would remain a residential zone as defined by the General Plan.

We understand there are additional plans for condo developments throughout Lafayette. Many of the proposed locations seem more

appropriate, for example, locations in non residential zones, close to BART and downtown.
These developments appear to have less negative impact on their neighbors (and Lafayette) than that of the Lafayette Park Terrace proposal. We hope the City Council will consider the neighbors of the proposed Park Terrace and the impact on their quality of life, pursuing instead the possibility of these alternative proposals to meet the housing demand in Lafayette.

Thank you again for your time and consideration.

Yours sincerely,

David and Vivienne Portnoff

Robbins, Joanne

From: Becky Courter [bekka2c@gmail.com]
Sent: Tuesday, July 22, 2008 8:47 AM
To: Robbins, Joanne
Subject: Bruce Torquemeda Development - Lafayette Park Terrace

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JUN 2 2 2008
CITY OF LAFAYETTE
PLANNING DEPT.

Members of the City Council

We would like to invite you again to come by our home and see the story poles for this project from our house and from our backyard to get a full understanding of the impact this will have on us.
Even though this does not impact our sight line views, this is still an imposing building that sits only feet from our property line and will have an impact on our privacy. Especially since they developer has added balconies that will be seen from our backyard.
Jeff is typically available all day if you would like to come by or feel free to call him at 925-324-0000

Thank you for your time.

Becky & Jeff Courter
1059 Pleasant Hill Rd
Lafayette, CA

TO	NAME
✓	FEDERICH
✓	ANDERSON
✓	AUDIN
✓	ANDERSON
✓	TATZIN
✓	CITY MANAGER
	ADMIN. SVCS. DIR.
	COMM. DEV. DIR.
	PLNG. SVCS. MGR.
	ENGRG. SVCS. MGR.
	PUB. WORKS MGR.
	PARKS & REC. DIR.
	FINANCIAL SVC. MGR.
	POLICE SVCS. MGR.
	ATTORNEY
	CITY CLERK
✓	Greg Wolfe

July 25, 2008

Mr. Michael Anderson, Mayor
City of Lafayette
3675 Mt. Diablo Blvd., Suite 210
Lafayette CA 94549

Re: GP1-05/RZ01-05 Torquemada

Dear Mayor and Council Members:

There are number of things that have not received adequate attention regarding the proposed multi-family building at the terminus of Mt. Diablo Court. One is the subject of landscaping and its impact on current residents, the future residents and the public.

The proposed project depends upon a significant amount of landscaping to hide it from offsite public views, which are protected under the General Plan. When we drafted the current General Plan, we stated that projects were to be evaluated based upon existing screening, and not future proposed screening (landscaping). The word "existing" was somehow deleted during the final approval process. However, it was and continues to be an important planning theme. Why is the term "existing" screening so important. Mainly, because we found after reviewing a number of previously approved projects that the City either could not, or would not enforce conditions of approval regarding landscaping (and other important conditions). For example, landscaping would not receive sufficient water, resulting in plants dying, or ever achieving their intended height. Simply poor maintenance was a constant problem. Properties changed ownership, and new owners changed the landscaping. Further, changing water requirements may prevent adequate watering of landscaping, causing the proposed landscaping to not meet its needs. In short, the City's ability to ensure that landscaping required by conditions of approval, upon which approval of the project is based, cannot be assured.

Therefore, this building should and needs to rely more heavily on existing landscaping. Existing landscaping not only protects views, but also protects privacy, for current residents, as well as for the future residents of the new building. Landscaping further serves to reduce noise, and to create a sense of place, in addition to improving appearance of the surrounding area. And, existing landscaping usually preserves the amount of sunlight that current residents desire.

The existing landscaping for Lafayette Pointe is comprised of a number of redwoods. However, there are a many problems with redwoods of this variety. First and foremost, as they mature, their branches and leaves rise. Therefore, any screening that the existing redwoods provide will diminish over time as the trees mature. Where branches now block the impact of the proposed building, there will be an open view or space in a relatively short time. Second, the adjacent residents have stated that they have planned a significant trimming of the redwoods, which are intruding into their building. This trimming will further diminish the screening impacts of the existing trees. Third, very little grows underneath redwoods, again due to several reasons including the tannin, the

lack of sunlight, the needles, and so forth. Fourth, redwood branches can die and create large open areas. Fifth, redwood roots are relatively shallow, and not as stable as other native trees. Therefore, the tree roots can be damaged and cause the trees to fall, or even die. If these redwoods need to be replaced, then the time for new trees to reach this height and screening capability will be another 20-25 years.

The net of all of this discussion is to alert you to the fact that both the existing landscaping, and the proposed landscaping should not be relied upon to solve the myriad or problems of such a huge building, placed so near the existing buildings.

Again, some of the problems are:

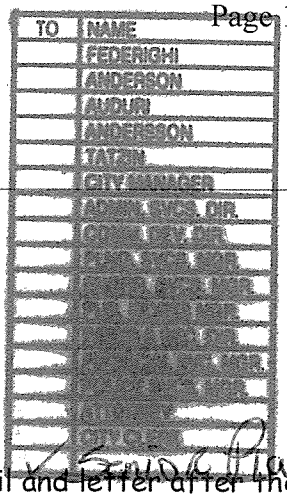
A) The loss of privacy for the current residents, as well as the new residents of the proposed building;
B) The loss of quiet enjoyment, for both the current residents, as well as the new residents of the proposed building;
C) The loss of open space for the general public, and for residents of both the existing and the proposed new buildings;
D) The loss of community character for a main entryway into the City;
E) The impacts upon sunlight, which can be so valuable for those wanting to relax in a warmer setting;
F) The feeling of place or space that so many value, particularly in multiple-family dwellings;
G) The loss of the enjoyment of vegetation that enhances a home environment, and improves property values;
H) The loss of general quality of life;
I) And, finally the loss of views of mountains, hillsides, and simply blue sky, which can also increase property values.

Therefore, without the reliance upon existing and proposed landscaping, the building should and must be redesigned to allow for these amenities, and to move it further from both itself, and adjacent buildings.

Thank you for your consideration,

Guy Atwood

Guy Atwood
Board Member
Springhill Valley Association
3345 Springhill Road
Lafayette CA 94549



Robbins, Joanne

From: Robbins, Joanne
Sent: Tuesday, July 29, 2008 10:08 AM
To: 'southbeachone@mac.com'
Cc: Wolff, Greg
Subject: RE: letters to CC re Lafayette Park Terrace

Greg

Dear Ms. Montgomery: Thank you for your e-mail. I received your e-mail and letter after the close of business on Monday, July 28th. A copy of your letter is being placed in the mayor and councilmembers' mailbox this morning. The city council values public input. Below is an excerpt from Resolution 2007-49 Rules of Proceedings for the Conduct of Council Meetings regarding public participation for your future reference as public input is very important to the mayor and councilmembers in their decision making process. Again thank you for your participation.

B. Public Participation.

1. Recognition. No person shall address the Council without permission of the presiding officer, or a majority of the quorum, or as otherwise required by law.

2. Addressing the City Council. A person addressing the Council shall do so at the place designated by the presiding officer and may begin by offering his/her name and address both orally and in writing.

3. Limits. Each speaker shall limit his/her remarks to three minutes, except as otherwise specifically provided for in these rules or except as such time is extended by the presiding officer with the consent of a majority.

4. Questions. Following each speaker's remarks, each Councilmember shall be given the opportunity to comment further and to address questions to the speaker.

5. Written Communications to be Included in the Agenda Packet. Written communications from the public to be included in the agenda packet shall be submitted to the City Clerk no later than 5:00 p.m. on the Monday preceding the regular meeting.

6. Other Written Remarks Regarding an Agenda Item. A member of the public may submit written remarks concerning any item on the agenda. These remarks shall be submitted to the City Clerk no later than noon of the day of the public meeting. The City Clerk shall distribute copies at the meeting to the members of the City Council, the City Manager, and the City Attorney. At least three copies shall be available for public inspection.

Joanne Robbins, CMC

City Clerk
City of Lafayette
925-284-1968

From: southbeachone@mac.com [mailto:southbeachone@mac.com]
Sent: Monday, July 28, 2008 5:03 PM
To: Lynn Hiden
Cc: Robbins, Joanne; Guy Atwood; Nancy Caranica; Krista McGuire; vivportnoff@gmail.com; Kathy Skovgard; debora peverada; cgray@berkeley.edu; Castro, Randy; Becky Courter; Sveta Yankina
Subject: Re: letters to CC re Lafayette Park Terrace

Dear Joanne,
Please see my letter below to the council regarding this matter. Thank you so much.
Marci Montgomery
southbeachone@mac.com

July 28, 2008

Mr. Michael Anderson, Mayor
Lafayette City Council
3675 Mt. Diablo Boulevard, Suite 210
Lafayette, CA 94549

R: GP1-05 / RZ01-05 Bruce Torquemada application

Honorable Mayor Anderson and Members of the City Council:

I wanted to express my wish that you would vote against the proposed development referenced above. I am among the many Lafayette Pointe residents who fully support and agree with the letter sent to you by the Lafayette Pointe Homeowner's Association that makes its case against the proposed development referenced above.

As a recent Lafayette Pointe resident who only moved here on June 15th, I am deeply concerned about this proposed development and requested amendment to the general plan. The HOA letter has already stated all of the technical points. Let me add that this matter is of great concern to those of us who live in the neighborhood and that the majority of Lafayette residents who have spoken out about the project are against it as it is currently proposed. The primary reasons, as the HOA letter pointed out, have to do with the size, density, and placement of the proposed structure. It is too close to our homes, unsightly and inappropriate for the size and hillside situation of the parcels involved.

My specific issues with the project also include the health and preservation of the redwood trees that line the eastern side of the Lafayette Pointe property. These beautiful mature trees screen our homes; provide shade and coolness to residents, and protect us from the wind on the adjacent hillside. They house birds and shelter other wildlife, and are a peaceful refuge for evening walks and neighborhood chats. This stand of redwoods, which have been growing for at least 23 years, would undoubtedly be endangered by the proposed hillside excavation and subsequent construction of the development as it is currently sized and situated. Lafayette Pointe residents have been advised by a professional arborist that although the trees would be expected to survive, they will undoubtedly become stressed and more susceptible to disease—in fact it is predicted that they will sicken. Therefore, we are advised to expend money and effort to mitigate the anticipated damage—including a planned program of excess watering of the trees and tree roots.

Please bear in mind that given our hillside location, this means purchasing and using excessive amounts of high-elevation water during a draught period. We are not even certain that the water resource management authorities will allow us to use—never mind without penalty—the amount of water needed to help these trees withstand the stresses of too-close excavation and construction. Watering may also have to be done manually since the current system is in effect for the entire complex and we do not know that it can necessarily be programmed differently for this stand of trees. These are all considerations that the HOA had not planned for. It puts an undue burden on residents here, since we did not create this problem and should not have to bear both the financial and time-related burden of protecting beautiful trees that provide their benefits to everyone, not just to those of us who live under and near them.

Beyond these issues, I am very uncomfortable with the plans for fire protection, should this project go forward as planned. The proposed buildings are extremely close to the eastern edge of the Lafayette Pointe complex, and access is gained only via a narrow cul-de-sac. Based on the story poles as currently laid out, it seems very unlikely that required fire department access could be possible. Fire could very easily jump from one property to the next, using the proposed and existing

vegetation as a chimney. We have all borne witness to the ravages of California wildfires. As temperatures rise and precipitation declines, the fire season is becoming a year-round problem for all communities and is having a huge impact on a state budget that is already in deficit.

Lastly, I was asked by council at the last meeting whether I believed the proposed traffic signal would help the traffic situation. I answered that I believed it likely would help. But let me make clear that I am not asking for this light to be put in, nor do I feel that it is necessary or a good use of city funds—even half the cost is too great an expense. If there were no amendment to the general plan, the development would be limited to 6 homes per acre and we would not need a traffic signal. Moreover, a traffic signal at Mt. Diablo Blvd would not help those of us trying to exit from Lafayette Pointe (a mandatory left turn onto Mt. Diablo Ct.) if there were 20 or more new homes to our right.

I am sure that the Lafayette City Council is doing its best to uphold its pledge to serve the electorate and be guided by the wishes of the majority. And I believe that the citizens of Lafayette are not in favor of granting unnecessary exceptions to the general plan in order to accommodate the desires of a Pleasanton-based developer. I would ask that you please respect the wishes of the majority of Lafayette residents and retain the plan that our citizenry has entrusted with you. From the documents and arguments presented in favor of this particular project, we can see no reason other than greed to amend the general plan and allow this development to go forward as proposed.

Respectfully yours,

Marci Montgomery
3279 Mt. Diablo Ct. #21
Lafayette, CA 94549

On Jul 18, 2008, at 5:07 PM, Lynn Hiden wrote:

Dear Homeowners interested in Lafay Park Terrace application--

Here is the email for Joanne Robbins. Double Click onto it and you can send your letters for the July 28th City Council packet to her. The LHC will be doing one, as well, I believe.

The deadline is actually 5 p.m. Monday. If you email Joanne in the City offices or call her and ask her permission, she MAY extend the deadline to Noon on Tuesday. It is easier and more certain, however, to just get it in by 5 p.m. on Monday. And very much easier on Joanne, who puts those packets together for the Council.

Lynn Hiden

July 28, 2008

RECEIVED
JUL 2 8 2008
CITY OF LAFAYETTE
PLANNING DEPT.

Mr. Michael Anderson, Mayor
Lafayette City Council
3675 Mt. Diablo Boulevard, Suite 210
Lafayette, CA 94549

R: GP1-05 / RZ01-05 Bruce Torquemada application

Honorable Mayor Anderson and Members of the City Council:

Thank you for taking the time out of your busy schedules to visit our properties in order to view first hand our concerns.

The proposed project is far too massive and close to our homes and surrounding neighbors. In addition, the towering walls, its balconies, windows, and patios will eliminate the sunlight, create a lot of noise (directly outside my bedroom window as well as my sister's), reduce privacy to the point where we will have none, impact our views and destroy the ambiance of the neighborhood. The solution, reduce the project in size, and to move it further away from our homes.

When our parents purchased the condominium at Lafayette Pointe, we were told that the surrounding parcels could not be developed. We believed that the City would protect us against such impacts. Therefore, the proposed project should not be allowed to increase its density, or the City will have abrogated its responsibility to all 32 homeowners at Lafayette Point as well as our surrounding neighbors.

The project proposes to solve both the onsite and offsite visibility issues by covering up the project with landscaping. It will take at least 20 years to achieve that goal. Any additional foliage will actually be more intrusive to us as it will cover up the remaining open space and completely box us in. Not to mention that adding additional plants and trees will not act as a noise barrier.

I trust you will take appropriate action and reduce the size and move it further from our homes.

Sincerely,

Debora L. Peverada

July 28, 2008

RECEIVED
JUL 28 2008
CITY OF LAFAYETTE
PLANNING DEPT.

Mr. Michael Anderson, Mayor
Lafayette City Council
3675 Mt. Diablo Boulevard, Suite 210
Lafayette, CA 94549

R: GP1-05 / RZ01-05 Bruce Torquemada application

Honorable Mayor Anderson and Members of the City Council:

My daughters informed me that each of you have come out to visit their home regarding the above matter. Thank you for taking the time out of your busy schedules to do so.

My late husband and I bought this for our girls so that they would have a nice home in a nice location and still close to me as well as my late husband.

The impact this proposed project will have on their quality of life, which they have come to enjoy for the last 20 years, is horrendous. When we bought this home we were assured that building on the hillside next to them would not occur. In fact, we were given a copy of the Lafayette General Plan. We were also told that the surrounding parcels could not be developed at higher than what was the allowable densities at the time, so that it would not cause an increase in traffic, pollution and noise, and reduce privacy or impact views. My late husband and I were told that we need not worry, as the City of Lafayette would protect the hillside and us because this was a condition that was spelled in order for the Lafayette Point Complex to get approved in the General Plan. This information sealed our decision to buy the unit, which came at a high price because of the panoramic view as well as being on the end. This provided our girls with the desired quiet and privacy that they were seeking. Their desire to live in a small community and complex is what drew them to Lafayette. Now, their quality of life that we all entrusted with the City and Community Planners is being demolished.

My daughters have also informed that on numerous occasions they heard in some way or another that as a homeowner in a multi family dwelling versus a single family home makes them less important or that they do not have the same standing in the community as single family residents do. Furthermore, the change to their quality of life, sunlight and noise levels as a result of the proposed balconies, patios due to the close proximity

of the complex, as well as all of their privacy along with theirs neighbors will be forever destroyed if you were to approve the current plans submitted by the applicant.

I implore you to act accordingly and reduce the size of this project and move it further away from my daughter's home as well as their neighbors.

Very truly yours,

Vanda Peverada
Owner
3279 Mt. Diablo Ct #31
Lafayette California, 94549

July 27, 2008

Mr. Michael Anderson, Mayor
Lafayette City Council
3675 Mt. Diablo Boulevard, Suite 210
Lafayette, CA 94549

RECEIVED
JUL 28 2008
CITY OF LAFAYETTE
PLANNING DEPT.

RE: GP1-05 / RZ01-05 Bruce Torquemada application.

Dear Mayor Anderson and City Council Members:

First I would like to thank you for taking the time from your busy schedule to visit and see first hand the concerns I have regarding the placement of this proposed multi-family dwelling.

The impact this dwelling will have on the quality of life we have enjoyed for the last 20 years is inescapable. When we bought this home we were assured that building on this hillside would not occur. In fact we were guaranteed that the City of Lafayette would actually be protecting the hillside and us when our complex was approved. The City spelled out this protection in the conditions of approval for our complex, and in the approved General Plan. This information sealed our decision to buy our unit at a much higher price because of the panoramic view. The end unit also afforded us the needed, required and desired quiet and privacy. Our desire to live in a small community and complex is what drew us to Lafayette, and now that trust in the City and community planners is being destroyed. What further concerns me, are the multiple times it has come up during this entire process that, as a homeowners choice to live in condo versus a single home, we are not as important or have the same equal footing in the community compared to the single family residences. Furthermore, the change to our neighborhoods quality of life, sunlight, noise levels from the proposed balconies, patios because of the close proximity of the complex, as well as all of our privacy' will be forever destroyed if you were to approve the current plans submitted by the applicant. I want to restate some of our concerns and dispel any perceived misunderstandings regarding our concerns:

1) Progress: It has been a common theme that we are fighting change and progress. That is not the case - progress is not what we have continued to stress in our resistance to the change to the general plan. What we are stating is that the current density of the property calls for 6 units per acre. The proposal states to allow for density up to 17 units per acre. You are not using all 2 acres, as not all of the acreage is build able. The current project is using only half of the hillside. We are requesting, if this development were to proceed, that the building design needs to be changed, and therefore more importantly we need not change the current standards that are outlined in the general plan. The unit is

a two-story slab that stretches for west to east and impacts all of the neighbors and residences at the East end of Lafayette.

2) Bulk/Mass: The current design is not one that is crafted to be situated into this parcel and be attractive. What is being proposed is to introduce landscaping to HIDE this unit. If the plan designs had been done properly there would never have been a reason to introduce landscaping to mitigate the concerns of the residences that surround this proposed complex. This additional landscaping will only continue to increase the lack of sunlight and quality of life. Again this will only increase the cave like environment for several of our units, which will undermine the value of our unit. The square footage of the units exceeds standard single-family homes in Lafayette. This truly is not affordable housing and definitely the large units will be considered very desirable and will call for the highest prices, which we all know would not be considered affordable housing for most buyers.

3) Proximity: ALL of our windows on the side of Lafayette Pointe face this complex. Also, there is a common sitting area that Joe Bologna states will sit 4, which is right outside our bedroom windows. It is not the general common area, but an area where the proposed residents could go to in small groups to visit with friends and family. This concern gets dismissed because it is a small gathering place and will have landscaping around it. Landscaping is proposed as a way to block this from our line of sight; however it does not stop the noise and invasion of our privacy, plus interrupting working from home and also interfering with our sleep, since our bedroom windows face this area. It has often been recommended we could ask them to be quiet. Honestly that is such an unacceptable response as a way of dismissing our concerns. We will hear and see parties on the large patios and the decks that border or property. Currently we can and do hear the high school football games in the evenings. This is short-term noise but imagine having this mass next to you daily and that noise will never change and will be with us forever.

Additionally all the neighbors have a right to all of their views, their sunlight, their privacy, not the little that remains after this project is built.

4) **ABAG:** The current general plan meets the current and future requirements of the community. Additionally the recommendation by the ABAG speaker was we should create urban living by developing the current usable space, not the open space, which is what is currently being proposed. The charter for ABAG is to provide urban housing which is close to downtown services and public transits. This proposed project clearly does not meet that charter in any way.

5) **Traffic Signal**: The project proposes to add a fourth traffic signal to the three existing ones located within less than a mile of each other on Mt. Diablo Boulevard. This additional signal, which is not timed with the other three signals, but is activated upon vehicles exiting or entering Mt. Diablo Court will begin to divert traffic from this area of Lafayette. The amount of vehicles using this intersection, as a result of the proposed increase in density, will overload the traffic signal. This diversion will impact Blodgett's ability to attract business from other communities, as well as impact other local businesses in the eastern area of Lafayette. Currently vehicles just begin to build up their speed when approaching Mt. Diablo Court from the blind curve just past the cemetery, as it slopes downward from west to east. These vehicles will tend to run the light, or stop quickly causing rear-end crashes and increasing the overall chance of accidents.

I would be willing to not have this traffic signal, as long as the project were built within the existing zoning, or greatly reduced in size.

In closing, I want to leave you with a thought during your review and decision. We, in Lafayette Pointe, are 32 homeowners (and over 50 residents) that have lived and paid taxes in this community. We want to be valued and respected as any other residents in the community and not be treated any differently.

We placed our trust in the City when we bought our place. What you are stating to me is that this trust was misplaced. What I am hearing is that the City Council does not care about our community and the surrounding homeowners. This is very disheartening and leaves me very upset and sad.

I hope that you give some thought to this project and the impact it will have on the residents of East Lafayette. I trust the Council to really review the letters of objection from the neighbors and the community on this proposed project. We are pleading that you require a significant reduction in the current size and design of the building, as well as the square footage of each unit, along with requiring there be a significant change to the extremely close proximity of this building to our neighbors and us.

Sincerely,

Katherine M Skovgard

Katherine M Skovgard

July 24, 2008

Mr. Michael Anderson, Mayor
Lafayette City Council
3675 Mt. Diablo Boulevard, Suite 210
Lafayette, CA 94549

RECEIVED
JUL 2 5 2008
CITY OF LAFAYETTE
PLANNING DEPT.

R: GP1-05 / RZ01-05 Bruce Torquemada application

Honorable Mayor Anderson and Members of the City Council:

In summary, the Lafayette Homeowners Council has serious concerns and reservations about a number of significant issues concerning this application. When an application involves a General Plan change and/or zoning changes, there is a higher threshold generally applied to such changes. When an application impacts a major entryway into the City and a number of General Plan Goals and Policies, and is highly visible by thousands of people daily, an even higher threshold should be applied. Further, when an application also impacts a number of neighbors, there must be compelling reasons for such a change, and every effort needs to be made to protect those residents of the City. Therefore, based upon the discussion below, it is our strong recommendation that this project be reduced in size to protect the neighboring residents and to minimize the overall impacts of the project on the City.

1) **Size of Units**- The project proposes twenty living units, eleven of which are about 2,000 sq. ft., or larger, excluding the garages. Together with the other nine units and garage area, the project totals about 55,000 sq. ft. This total equals about 2,750 sq. ft. per unit, which is larger than most of the single-family residential homes in Lafayette. When applying a normal standard to such a highly visible project, 2,750 sq. ft. homes should not be allowed. When applying a higher standard for a project requesting a General Plan change in height and use, plus a zoning variance for a 67% increase in density, there should not be any question that the project is much too large for the site, and should be reduced in size.
2) **Number of Units**- The project is proposing an increase in allowable density of 67%. In the history of the City, no private project has ever been approved with such an increase over the existing zoning. If such a project were to be approved, then the size of the units should be drastically reduced to compensate for the greater number of units. Ideally, both the number of units and their sizes should be reduced.
3) **Transition**- The concept of this project being a transition from multi-family to residential has been suggested. However, it is difficult to understand this logic given the area is already zoned residential. The adjacent parcels are condominium and apartments. Therefore, it appears the project is only transitioning from condominium to condominium, or from multi-family to multi-family. If the former is the case, then there is no transition. If the latter is the case, then the

design and layouts are inappropriate for the site. Townhouses, which complement the residential areas to the east and south, would be far more appropriate.

4) **Impacts on Neighbors**- Again, if the concept is to transition from one use to another, then the impact on the surrounding neighbors should be minimal. Where residences are impacted by new development, whether single-family or condominium, those homes and uses should be protected. In this proposal there is a major impact upon the surrounding parcels. The project is far too massive and close to the surrounding neighbors. In addition to the towering walls of the project, its balconies, windows, and patios eliminate the sunlight, create noise, minimize privacy, impact views, and destroy the ambiance of the neighborhood. The solution is to reduce the project in size, and to move it further away from the neighbors, particularly to the west and east.
5) **General Plan impacts**- The project is inconsistent with the General Plan, and virtually all of its goals and policies. The project is inconsistent with the scale and pattern of the existing neighborhood. The project does not protect the character and patterns of development for a residential neighborhood. Further, it does not transition from the multiple-family on the west. It, in fact, continues the multiple-family and density right up to the single-family residential. The design is poorly done, as discussed below. Privacy of the neighbors is virtually destroyed. A major hillside is being severely impacted. Trees are being eliminated. The density is 67% greater than allowed; and, as discussed below, is about 2 and ½ times greater than what would normally be allowed. Open space is being covered up. And views, whether from offsite public viewing areas, or from neighboring parcels, are being obliterated. The design is poorly done for the site. The natural waterway on the property is being re-channeled. And, the open space, scenic viewsheds, and semi-rural qualities around this major residential entryway to Lafayette are not being preserved.
6) **Existing Density**- The existing density allows up to twelve single-family homes on the parcel. Given the constraints of the hilly slope, if twelve single-family homes were built, they would by necessity be smaller. Using a normal home size of 2,000 sq. ft., or 24,000 sq. ft. for a 12-unit single-family development, the proposed project of 55,000 sq. ft. would be almost 2 and 1/2 times the size of that normally allowed in the existing zoning, or dictated by good planning. A size variance of 2 and 1/2 times what would normally be allowed in the existing zoning appears unreasonable. When a higher General Plan standard is applied, such a variance appears unacceptable.
7) **Circulation**- The proposed project will generate 240 vehicle trips per day. The existing cul de sac is very small, and the turnaround radius together with the on-street parking is extremely difficult to navigate. This amount of traffic will seriously impact the circulation of the cul de sac, and will force the vehicles coming out of the adjacent apartment dwelling, Lafayette Pointe and office building to queue up and wait to exit. Together with the adjacent office events, which require substantial on street parking, there will be virtual gridlock on this small cul de sac. This is not good planning, as the vehicles could queue up to Mt. Diablo Blvd., causing additional circulation problems.

8) **Traffic Signal**- The applicant proposes to handle the circulation problems created by their project, by paying half the cost of a traffic signal at the corner of Mt. Diablo Blvd. and Mt. Diablo Court. By doing so, the applicant implies they should be allowed to exceed the existing density in units by 67%, or perhaps as much as 2 and 1/2 times the actual square footage allowed:
    a. The applicant should not be rewarded with additional density by providing half the mitigation for a problem that they created;
    b. A fourth traffic signal in this area, which is not timed and out of sync with the other three traffic signals, will only add to the congestion and circulation problems in this vicinity;
    c. Making it difficult for vehicles to enter and exit the City serves to make it more difficult on the local businesses;
    d. The surrounding residents have stated that given the option of having twenty units at the existing unit sizes with a traffic signal; or given the option of twelve units without a traffic signal, they would accept the twelve units.

    Therefore, we concur with the residents and recommend you maintain the existing density and eliminate the traffic signal, or reduce the size of the project.
9) **Growth Inducing**- When the Lafayette Pointe condominiums were approved, one of the major reasons for its approval was that the project would not be growth inducing. This means surrounding parcels could not be developed at higher than currently allowable densities that would then cause an increase in traffic, pollution and noise, and reduce privacy and impact views. There were also concerns about soils conditions in the area, and the protection of wildlife, and many other concerns that needed to be dealt with to meet approval. Residents of Lafayette Pointe were told the City would protect them against such impacts. Without this protection, Lafayette Pointe would not have been approved. Therefore, the proposed project should not be allowed to increase its density, or the City will have abrogated its responsibility to the neighboring residents, the Lafayette Pointe residents, and the apartment residents.
10) **Design**- The design of the project gives the appearance of one long giant wall across the hillside, moving from one property line to the other. The applicant has never attempted to develop a design that is contoured to the site, that breaks up the project to allow sunlight and views through the building, and that minimizes the impacts upon neighbors. Nor has the project been designed to be transitional, as discussed above. For example, the adjacent Lafayette Pointe condominiums were designed to minimize impacts upon their neighbors and from offsite, were designed as three separate buildings, and were contoured to the hillside. Some people do not even realize there are three buildings there. The solution would be for this proposed project to be redesigned, or reduced in size to accommodate these goals.
11) **Soils Removal**- The project proposes to remove about twenty thousand cubic yards of soil. The recently approved Woodbury project for 60-65 units, which is triple the size, does not require that much soils removal. Basically, a major portion of the vacant hillside is being removed to accommodate this huge

building, which is 67% larger than allowed. This amount of soils removal does not appear consistent with the semi-rural nature of the City, and this area.

12) **Landscaping**- The project proposes to solve both the onsite and offsite visibility issues by covering up the project with landscaping:
    a. First, the landscaping could take twenty years to accomplish this goal;
    b. Second, the surrounding residents do not want the landscaping, if it will intrude upon their views;
    c. Third, the proposed landscaping, instead of creating open space, actually covers up much of the existing open space;
    d. Fourth, well-designed projects do not require landscaping to hide them. Landscaping should enhance a project, not cover it up and block the views of surrounding residents. Therefore, the project should be reduced in size and re-designed to eliminate the need of such landscaping to cover up the building.
13) **Height Variance**- The applicant is requesting a height in the amount of 43 feet, which is 23% over the allowed amount of 35 feet. In effect what the additional height accomplishes is to hide the open hillside behind the proposed building. The project, when viewed from twelve major public roads, is quite visible. The City's ordinances and policies do not allow such an impact from public viewing areas. Also, the additional height further imposes upon the privacy and quality of life of the neighbors. Such a height variance is normally reserved for the Downtown core of the City. Usually such a height variance does not impact upon neighbors, or the open space. And, such height variances are not usually granted when they are so visible and seen from so many public-viewing areas. Therefore, any variance should be minimal, sensitive to the privacy and views of surrounding neighbors, and held to the highest of standards.
14) **Location**- The proposed project is located at the eastern side of the City in a residential zone. It is miles away from the Downtown core of the City, and where there is shopping and other retail services. If the City determines they need more multi-family housing, it should be nearer the Downtown, and not so far from such services. Thus, any findings of consistency with the General Plan, or in meeting the goals of the General Plan based on this location, are not accurate.
15) **Geology**: The City maps and the BART commissioned 2006 study, and the project's own geotech consultant, confirm that this project appears to be situated in the Contra Costa Sheer Zone, and within the "Area of known slides and ground highly susceptible to sliding. Figure 1 of the BART study shows that the dotted lines connect the potentially active (Lafayette) Reliez Valley Fault and the known active Calaveras fault. The approved Lafayette General Plan states in Policy S 2.2 that we should locate construction of high-density residential buildings outside of high-risk zones. This location within the CCSZ, and on ground highly susceptible to sliding constitutes a potentially significant impact. In addition to giving serious consideration to the doubtful geology of the project, the staff prepared Sections 6A, C and D of the Neg Dec need to be changed from "Insignificant" impacts to "potentially significant", or to "significant impacts". Based upon this analysis, it would be wise to further light-load the density of this parcel, and to apply the most stringent of underlying construction standards and

supervision to this project in order to minimize the potential to life and property on this precariously situated locale.

16) **Public Opposition**- The proposed project has both local and citywide opposition. Over one hundred and forty residents have signed petitions in opposition to this project, and the list is growing.
17) **ABAG**- At the recent presentation on future ABAG requirements, the first two considerations listed for future development is that it;
    a. Reduce vehicular traffic, and
    b. Improve walkability.

    This project does the opposite. It proposes to increase vehicular traffic over the allowed zoning, and by its location far from services, mandates vehicle use vs. walking. Thus, the project is in violation of the primary ABAG goals.
18) **Need**- This project has not demonstrated a need within the community:
    a. Lafayette already meets it housing requirements established by ABAG within its existing General Plan;
    b. The large size of the units indicates that they will mostly be luxury units, and therefore will demand prices out of the range of those seeking more affordable units;
    c. The project is too far from services to provide housing for senior citizens and "empty nesters";
    d. 186 similar living units have recently been approved by the City, or in process for approval. Further, the City Manager has indicated there are more on the way. And, all are much nearer the Downtown services. These units represent a total greater than perhaps approved in the history of the City for such living units.

    There clearly is no need for the additional units being sought by the developer.
19) **Affordable Units**- The additional eight units being proposed, over the allowed density, may result in one additional affordable unit. This hardly appears to be sufficient reason to allow a 67% increase in density, a 23% increase in the allowed height, 2 and ½ times the normal square footage, and be allowed to impact the neighbors in such a significant manner.
20) **Cumulative Impacts**- Any one of the above points is sufficient reason to reduce the project in size. Cumulatively, we believe they are an overwhelming mandate to reduce the project in size.

We trust you will act accordingly and reduce the size of this project and move it further away from the surrounding neighbors.

Very truly yours,

Tom A. Grimes

Tom A. Grimes, Acting President
Lafayette Homeowners Council

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

A Resolution of the City Council of the City of Lafayette adopting a Mitigated Negative Declaration and approving a General Plan Amendment, Vesting Tentative Map, Design Review, Tree Permit, and Grading Permit for Lafayette Park Terrace, ~~an 20-unit~~ an 18-unit condominium project located at 3235 Mt. Diablo Ct. APNs: 233-131-020 & 022

Resolution No. 2008-035

WHEREAS, in April 2005**,** Bruce Torquemada filed an application on behalf of Lafayette Properties (Owner), to construct a multiple-family residential condominium project more fully described as follows, (hereafter the "Project"):

GP01-05 BRUCE TORQUEMADA, LAFAYETTE PROPERTIES, (APPLICANT & OWNER), R-15 ZONING, REQUESTS FOR:

(1) General Plan Amendment to change the land use designation from Medium Density Single-Family Residential (up to 6 dwelling units per acre) to Low Density Multiply-Family Residential (up to 17 dwelling units per acres) and to allow a residential building up to 43-ft. in height;
(2) Rezoning the subject property from Single-Family Residential District 15 (R-15) to Multiple-Family Residential District-A (MRA);
(3) Vesting Tentative Map to create ~~20~~ 18 condominiums and common area; and
(4) Design Review approval of the project including the approximately 32,000 sq.ft. residential condominium building with approximately 20,000 sq.ft. underground parking garage
(5) Tree Permit to remove protected trees associated with the development project
(6) Grading Permit to grade an estimated 20,000 cubic yards of earth
(7) Development Agreement
(8) Consideration of adoption of a Mitigated Negative Declaration of Environmental Impacts.

The project site is 2-acres located at 3235 Mt. Diablo Ct. APNs: 233-131-020 & 022

WHEREAS, the Project was referred to all affected public agencies pursuant to Government Code §65352;

WHEREAS, the Project was reviewed, studied, and found to comply with the California Environmental Quality Act ("CEQA") as more fully described below;

WHEREAS, over the course of three years the Design Review Commission, Planning Commission, and City Council of the City of Lafayette conducted more than twenty duly noticed public hearings on the Project, at which time all persons wishing to testify in connection with the Project were heard and the Project was fully studied;

WHEREAS, on September 10, 2007 the City Council of the City of Lafayette ("City Council") considered the matter at a duly noticed public hearing, where it received a written and oral staff report, testimony from the applicant and the public. The Council concluded that it could support the proposed land use but could not support the design of the two-stories-over-parking, 28-unit condominium project and therefore referred the matter back to the Planning Commission with direction to the applicant to "significantly reduce the height, size, bulk and mass of the project."

WHEREAS, on October 18, 2007 the Planning Commission determined that the applicant's redesign of the project resulting in a one-story-over-parking, 20-unit condominium project met the direction set by the City Council on September 10, 2007 by significantly reducing the height, size, bulk and mass of the project, and considering the significant change in the design of the project, the Planning Commission referred the matter to the Design Review Commission for review;

WHEREAS, on February 26, 2008 the Design Review Commission recommended approval of the 20-unit Project, being able to make the required findings and supporting the proposed conditions of approval;

WHEREAS, on April 17, 2008 and May 15, 2008, the Planning Commission recommended adoption of the Mitigated Negative Declaration and approval of the 20-unit Project, being able to make the required findings and supporting the proposed conditions of approval;

WHEREAS, on July 14, 2008, the City Council conducted a duly noticed public hearing on the Project, at which time all persons wishing to testify in connection with the Project were heard and the Project was fully studied; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE BE IT RESOLVED THAT:

SECTION 1. A Mitigated Negative Declaration and an Initial Study of environmental impacts have been prepared for the Project in accordance with the California Environmental Quality Act (CEQA) and the state CEQA Guidelines.

SECTION 2. Based on the Mitigated Negative Declaration, the Initial Study, the administrative record, and all written and oral evidence presented, the City Council finds that all environmental impacts of the Project are less than significant or can be mitigated to a less than significant level pursuant to the mitigation measures outlined in the Mitigated Negative Declaration and the Initial Study. The City Council further finds that there is no substantial evidence in the record supporting a fair argument that the Project may result in significant environmental impacts. The City Council finds that the Mitigated Negative Declaration contains a thorough, objective, and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgment and analysis of the City Council.

SECTION 3. The City Council further finds and declares that the Project will not result in any changes to the following resources: (A) riparian land, rivers, streams, watercourses and wetlands; (B) native and non-native plant life and the soil required to sustain habitat for fish and wildlife; (C) rare and unique plant life and ecological communities dependant on plant life; (D) listed threatened and endangered plants and animals and the habitat in which they are believed to reside; (E) all species listed as protected or identified for special management in the Fish and Game Code, the Public Resources Code, the Water Code or regulations adopted thereunder; (F) all marine and terrestrial species subject to the jurisdiction of the Department of Fish and Game and the ecological communities in which they reside; and (G) all air and water resources, the degradation of which will individually or cumulatively result in a loss of biological diversity among the plants and animals residing in that air and water.

SECTION 4. The City Council finds that the Project is consistent with the applicable goals, policies and programs contained in the 2002 Lafayette General Plan as outlined in the attached "General Plan Consistency Table."

SECTION 5. Based on the entire record before the City Council, all written and oral evidence presented to the City Council, and the staff report prepared for the July 14, 2008, July 28, 2008 and September 22, 2008 meetings, the required findings for the requested permits have been evaluated by the City Council as follows:

REQUIRED FINDINGS

§6-213 Findings for a General Plan Amendment

A. The change proposed is consistent with the General Plan and each of its elements.
Please see Exhibit "A" General Plan Consistency Evaluation *attached to this resolution for the analysis of the project's consistency with the Lafayette General Plan.*

B. Community need is demonstrated for the change proposed.
A stated goal in the General Plan is to provide adequate housing stock for all segments of the community. As the costs of land, construction and single-family residences rise, there is a need for smaller owner-

occupied multiple-family residential units within the city. Condominiums can serve as starter homes for young couples or as smaller homes for "empty nesters" who wish to downsize while remaining in Lafayette. The project will also increase the affordable housing stock expressly reserved for those with low income levels.

Findings for Approval of a Tentative Map (§66474 Gov't Code)

1. The proposed map is consistent with applicable general and specific plans.
   Please see Exhibit "A" General Plan Consistency Evaluation *attached to this resolution for the analysis of the project's consistency with the Lafayette General Plan.*

2. The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.
   Please see Exhibit "A" General Plan Consistency Evaluation *attached to this resolution for the analysis of the project's consistency with the Lafayette General Plan.*

3. The site is physically suitable for the type of development.
   The Geotechnical Exploration, Lafayette Park Terrace, *prepared by EnGeo Geotechnical & Environmental Consultants, dated July 24, 2006, concludes that the site is physically suitable for the proposed multiple-family residential building. Stitch piers, soil nailing, key ways and engineered backfill are components of the site engineering to ensure long term stability of the site. The Design Review Commission and Planning Commission have reviewed the project and are supportive of the siting and physical layout of the project.*

4. The site is physically suitable for the proposed density of development.
   The Geotechnical Exploration, Lafayette Park Terrace, *EnGeo Geotechnical & Environmental Consultants, July 24, 2006 concludes that the site is physically suitable for the proposed multiple-family residential building. The proposed density of ~~10~~ 9 dwelling units per acre is lower than the density range of 12 – 34 DU/acre for existing multiple-family residential densities in the vicinity of the project. The applicant has demonstrated that the site can support the proposed density and square footage.*

5. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
   The project has been evaluated as required by the California Environmental Quality Act (CEQA) and the conclusion of that review is that the project will not have a significant impact on the environment as the result of mitigations incorporated into the project design and imposed by the City of Lafayette. Therefore, the project will not be likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. Please refer to the Mitigated Negative Declaration of Environmental Impacts.

6. The design of the subdivision or type of improvements is not likely to cause serious public health problems.
   The project has been evaluated as required by the California Environmental Quality Act (CEQA) and the conclusion is that the project will not have a significant impact on the environment as the result of mitigations incorporated into the project design and imposed by the City of Lafayette. Therefore, the project will not be likely to cause serious public health problems. Please refer to the Mitigated Negative Declaration of Environmental Impacts

7. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.
   The site has private property on three sides and CalTrans right-of-way on the fourth. The property that contains an existing sanitary sewer easement along the northern property line. A condition of approval requires the developer to grant a pedestrian access easement along the northern property line, corresponding to the existing sanitary sewer easement, for a future pedestrian connection between Mt. Diablo Court and Pleasant Hill Road. No structures are allowed in the sanitary sewer easement and therefore a pedestrian path would be a good use of the land. The subdivision and its improvements will not conflict with any easements for access through or use of the property, but would instead improve access for the public at large.

§6-275 Specific Findings Required for Design Review.

1. Every provision of this chapter is complied with;
   The applicant has complied with the application requirements set forth in Chapter 6-2.

2. The approval of the plan is in the best interest of the public health, safety and general welfare;
   The project has been evaluated as required by the California Environmental Quality Act (CEQA) and the conclusion is that the project will not have a significant impact on the environment as the result of mitigations incorporated into the project design and imposed by the City of Lafayette. The applicant has demonstrated that the project is in the best interest of the public's general welfare. A stated goal in the General Plan is to provide adequate housing stock for all segments of the community. As the costs of land, construction and single-family residences rise, there is a need for smaller owner-occupied multiple-family residential units within the city. Condominiums can serve as starter homes for young couples or as smaller homes for "empty nesters" who wish to downsize while remaining in Lafayette. The project will also increase the affordable housing stock expressly reserved for those with moderate or low income levels.

3. General site considerations, including site layout, open space and topography, orientation and location of buildings, vehicular access, circulation and parking, setbacks, height, walls, fences, public safety and similar elements have been designed to provide a desirable environment for the development;
   The project has been sited in the north-central portion of the site, with the highest roof ridge lower in elevation than the finished floor level of the houses uphill to the south and condominiums to the west. Adequate access is provided from Mt. Diablo Court and parking is provided in an on-site, underground garage in excess of that required by code. Public and private outdoor living space is provided for residents. Existing and new landscaping is provided around the site to soften the building, and to provide screening and privacy.

4. General architectural considerations, including the character, scale and quality of the design, the architectural relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting and signing and similar elements have been incorporated in order to ensure the compatibility of this development with its design concept and the character of adjacent buildings; and
   The Design Review Commission and Planning Commission have both reviewed the project and have required a high caliber of design. Dark colors, durable materials, shielded light fixtures, and robust landscaping have been required by the Design Review Commission, mitigating visual impacts, both day and night. The building is compatible in scale with the multiple-family residential projects immediately adjacent to the west, with superior architecture. By its nature, the multiple-family residential building will not be of compatible scale with the single-family residences some distance to the east and south. The site planning, architectural design, the distance between structures, the difference in elevation between structures, and landscape screening result in the visibility of the project being adequately mitigated when from single-family residences.

5. General landscape considerations, including the location, type, size, color, texture and coverage of plant materials, provisions for irrigation, maintenance and protection of landscaped areas and similar elements have been considered to ensure visual relief, to complement buildings and structures and to provide an attractive environment for the enjoyment of the public.
   The landscape plan shows extensive perimeter planting, including many native species, to provide softening of the building and screening for those viewing inward to the site and outward from the site. Adequate public open space and private open space has been provided for the residents of the project.

§3-701 Findings Required For Approval of a Grading Permit

1. The grading will not endanger the stability of the site or adjacent property or pose a significant ground movement hazard to an adjacent property. The decision making authority may require the project geotechnical engineer to certify the suitability of the project supported by appropriate technical studies, including subsurface investigation;
   The Geotechnical Exploration, Lafayette Park Terrace, *by EnGeo Geotechnical & Environmental Consultants, July 24, 2006 concludes that the site is physically suitable for the proposed multiple-family residential building. Stitch piers, soil nailing, key ways and engineered backfill are components of the site engineering to ensure long term stability of the site.*

2. The grading will not significantly increase erosion or flooding affecting the site or other property and will not cause impacts to riparian habitats, stream channel capacity or water quality that cannot be substantially mitigated;
   Project grading consists primarily of cut into the existing hillside behind the building, in part to reduce the overall height of the project. A Stormwater Control Plan has been prepared in order to mitigate any potential adverse impacts on storm water quality. There are no streams or riparian habitat in the vicinity of the project.

3. The grading, when completed, will result in a building site that is visually compatible with the surrounding land;
   Project grading is designed to return the hillside to substantially its prior form, albeit at a greater slope than exists prior to the project, and with landscape planting. The larger visual changes will stem from construction of the building and significant screening planting on the hillside where currently it is an open grassy hillside without larger forms of vegetation.

4. The grading is sensitive to the existing landforms, topography and natural features on the site;
   The site is generally a moderate to steep upslope from north to south. The project will result in this same configuration with a somewhat steeper upslope behind the building. The building, existing vegetation and new landscaping will mitigate off site views of this slope.

5. The design of the project preserves existing trees on the site and trees on adjoining property to the extent possible.
   The project preserves the majority of trees around the perimeter of the site and all trees on adjoining properties. Trees slated for removal are not native to Lafayette, are central to the property, and generally within the proposed building footprint.

§6-1707 Permit Category II - Protected tree on property associated with a development application.

Determination. The application shall be approved or denied by the hearing body based on the following factors:

1. Health, condition and form of the tree;
2. Number, size and location of other trees to remain in the area;
3. Relationship of the property to riparian corridors, a scenic or biological resource area or a restricted ridgeline area;
4. Role of the tree in a tree grove or woodland habitat;
5. Value of the tree to the neighborhood in terms of visual effect, wind screening and privacy;
6. Damage caused by the tree to utilities, streets, sidewalks or existing private structures or improvements;
7. Role of the tree in mitigating drainage, erosion or geologic stability impacts; and
8. Health and condition of the area within the protected perimeter.
9. Necessity for the pruning or removal in order to construct a required improvement on public property or within a public right-of-way or to construct an improvement that allows reasonable economic enjoyment of private property;
10. Extent to which a proposed improvement may be modified to preserve and maintain a protected tree; and
11. Extent to which a proposed change in the existing grade within the protected perimeter may be modified to preserve and maintain a protected tree.

    The arborist report analyzes fifty three trees on the site. Twenty nine trees which are not native to Lafayette are proposed for removal. The majority of trees proposed for removal are Coast Redwoods which straddle the property line between the two parcels that together constitute the project site. The trees are of small-to-moderate caliper at 4.5-ft. above grade and are fair to good health. None of the trees proposed for removal are important to the wider neighborhood for screening, because of their character, or as part of a larger grove. The majority of the trees at the perimeter of the site will be retained and supplemented with new screening trees which are native to Lafayette. The applicant is required to plant replacement trees in restitution for all trees greater than 6" DBH that will be removed as part of the project, pursuant to §6-1710 LMC "Tree Protection."

SECTION 6. The City Council hereby adopts the Mitigated Negative Declaration for the Project attached to this Resolution as Exhibit "D" and incorporated herein by reference. The mitigation measures contained therein are fully enforceable as conditions of project approval.

SECTION 7. Based on the entire record before the City Council, all written and oral evidence presented to the City Council, the staff report prepared for the July 14, 2008 meeting and the findings made in this Resolution, the City Council hereby approves the following:

(1) General Plan Amendment to change the land use designation from Medium Density Single-Family Residential (up to 6 dwelling units per acre) to Low Density Multiply-Family Residential (up to 17 dwelling units per acres) and to allow a building up to 43-ft. in height;

~~(2) Rezoning the subject property from Single-Family Residential District 15 (R-15) to Multiple-Family Residential District-A (MRA); and~~ (See Ordinance 580 for City Council action on the Rezoning)

(3) Vesting Tentative Map TR9125 creating 20 condominiums and common area; and

(4) Design Review of the project; and

(5) Tree Permit to remove protected trees; and

(6) Grading Permit to grade an estimated 20,000 cubic yards of earth;

~~(7) Development Agreement~~ (See Ordinance 580 for City Council action on the Rezoning)

SECTION 8 . The Planning and Building Services Manager shall modify General Plan Map I-1 Land Use in accordance with this Ordinance to indicate thereon the land use designation applicable to the Property.

SECTION 9. The location and custodian of the documents and any other material which constitute the record of proceedings upon which the City Council based its decision is as follows: Planning & Building Services Manager, City of Lafayette, 3675 Mt. Diablo Boulevard, Suite 210, Lafayette, California 94549.

SECTION 10. The City Council directs staff to file a notice of determination and a certificate of fee exemption (*de minimis* impact finding) with Contra Costa County within five (5) working days of adoption of this Resolution.

SECTION 11. This Resolution shall become effective thirty (30) days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Lafayette at a regular meeting of said Council on October 14, 2008, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST: **APPROVED:**

_____ _____

Joanne Robbins, City Clerk Mike Anderson, Mayor

ATTACHED
Exhibit A: General Plan Consistency Table
Exhibit B: Legal Description of the Property
Exhibit C: Conditions of Approval
Exhibit D: Mitigated Negative Declaration

City Council Resolution 2008-035 • Exhibit "A"
GP01-05 Lafayette Park Terrace

General Plan Consistency Evaluation
Lafayette City Council • July 28, 2008

Goal LU-1 **Protect the character and patterns of development of residential neighborhoods.**
The project proposes multiple-family residential adjacent to a series of existing multiple-family residential projects (apartment buildings and condominiums). The project will not adversely affect the character or pattern of development for either the adjacent multiple-family residential or single-family residential development. The proposal is to move the commercial/multi-family district line from the west property line to the east property line, effectively adding the subject property to the commercial/multi-family district. Doing so will not adversely affect development on the existing, single-family residential properties developed with residences some distance to the east and south.

Policy LU-1.1 Scale: [Single-family residential] Development shall be compatible with the scale and pattern of existing neighborhoods.
The Design Review Commission and Planning Commission have identified that the project is situated on a 'transitional site' from commercial/multi-family on the west to single-family residential to the south and east. Accordingly, the architect has been charged with designing a building that responds both the sloping topography and to the transitional nature of the site.

By its nature, the multiple-family residential building will not be of compatible scale with the single-family residences located some distance to the east and south. Through an appropriate, high quality design, adequate distance, difference in elevation, and landscape screening, the project is adequately mitigated when from single-family residences.

Policy LU-1.2 Design: Development should respect the architectural character of the neighborhood.
The neighborhood is an eclectic mix of architectural styles from single-family ranch homes to mid-century multi-story apartment complexes. The proposed architecture fits the eclectic nature of the neighborhood and fits the greater Lafayette aesthetic with architectural details like brackets and trim, roof overhangs to create shadow lines, and the use of darker colors and materials to help the building recede into the site. Dark colors and shielded light fixtures are required by the Design Review Commission, mitigating visual impacts, both day and night.

Policy LU-1.3 Privacy: Development shall respect the privacy of neighbors.
The building is situated vertically below the condominiums to the west and the single-family residence to the south thus not impacting privacy or distant views to the hills north of Highway 24 and east of Pleasant Hill Road. The building steps down to the east and is screened by topography (cut) and proposed vegetation to mitigate view from single-family residences to the east and travelers on Old Tunnel Road and Pleasant Hill Road. The project, with mitigation, will not adversely affect the privacy or views of the single-family residence to the east.

Policy LU-1.4 Property Maintenance and Nuisance: Require that properties are well-maintained and nuisances are abated.
The project is for-sale housing which historically has demonstrated a higher degree of

maintenance than for-rent housing. The quality of design, initial construction and use of durable materials, along with the sale price and homeowners'/condominium association will ensure that the project is well maintained and not a nuisance.

Goal LU-2 **Ensure that development respects the natural environment of Lafayette. Preserve the scenic quality of ridgelines, hills, creek areas, and trees.**

Policy LU-2.1 Density of Hillside Development: Land use densities should not adversely affect the significant natural features of hill areas.
The property is not located within the Hillside Overlay District, which begins immediately south of the project area. Neither does the project site have "significant natural features." Even so, the project has been sited on the lower portion of the site to keep the building as low as possible in order to minimize impacts on the neighbors and general public. After the upper portion of the slope is stabilized, it will remain as landscape open space buffer between the project and its neighbors, and serving as a visual backdrop from public vantage points.

Program LU-2.1.1: Implement the slope/density regulations and limitations on slopes required by the Zoning Ordinance.
The property is not within the Hillside Overlay District and thus not subject to the single-family residential densities set forth in §6-2043. The project is requesting a General Plan Amendment and Re-Zoning to increase the permitted density from 6 dwelling units per acre to up to 17 dwelling units per acre. The proposed density of 10 dwelling units per acre falls below the range of 11.8 – 18.25 dwelling units per acre for the neighboring multiple-family residential projects.

Policy LU-2.2 Cluster Development: Preserve important visual and functional open space by requiring development to be clustered on the most buildable portions of lots, minimizing grading for building sites and roads.

Program LU-2.2.1: Require design review for the development of sites in the hillside overlay area in order to provide greater environmental protection and open space preservation.
The property is not located within the Hillside Overlay District, which begins immediately south of the project area. Nonetheless, the project has been sited on the lower portion of the site to keep the building as low as possible to minimize impacts on the neighbors and general public. The building is proposed to be 'bunkered' into the hillside with parking below grade to hide the cars. This, along with the simplicity of the building form and compact footprint serve to preserve a larger portion of the site as undeveloped open space.

Policy LU-2.3 Preservation of Views: Structures in the hillside overlay area shall be sited and designed to be substantially concealed when viewed from below from publicly owned property. The hillsides and ridgelines should appear essentially undeveloped, to the maximum extent feasible.

Program LU-2.3.1: Require design review approval of all projects in the hillside overlay area as shown on Map III-1 *Hillside Overlay Area.* The approval body shall focus on retaining the natural features and character of hill areas.
The property is not located within the Hillside Overlay District, which begins immediately south of the project area. This program is not applicable to this project.

Goal LU-3: **Encourage well-designed residential development.**

Policy LU-3.1 Design: Development should be characterized by good functional design.
The project has been reviewed multiple times by each the Design Review Commission, Planning Commission, Circulation Commission and City Council. A significant portion of the discussion has focused on ensuring that the project is well designed. The findings for design review have been made by the Design Review Commission and Planning Commission and will need to be made by the City Council in order to approved the project.

Goal LU-4: **Ensure that the semi-rural character of the community is protected by appropriate infrastructure design.**

Policy LU-4.1 Infrastructure Design: Public and private infrastructure should reinforce the semi-rural qualities of residential neighborhoods.
No infrastructure is proposed in a single-family residential neighborhood.

Goal LU-5: **Preserve and enhance the open space, scenic viewsheds, and semi-rural qualities around the residential entryways to Lafayette.**

Lafayette's Residential Entryways should be distinctive and attractive, establish a positive image of the community and reflect the semi-rural residential character of the community. These Residential Entryways include: Acalanes Road, Mt. Diablo Boulevard from Acalanes Road to Risa Road, El Nido Ranch Road, Glorietta Boulevard, Happy Valley Road, Moraga Road, Olympic Boulevard, Pleasant Hill Road, Reliez Valley Road, St. Mary's Road, and Taylor Boulevard. Refer to Map I-2.
The project has some limited view from Pleasant Hill Road. The project is situated behind development fronting on Pleasant Hill Road and Mt. Diablo Boulevard and is well screened by these properties and existing vegetation. The upper portion of the project can be seen from the eastbound Highway 24 to southbound Pleasant Hill Road off ramp. Review by the Design Review Commission, Planning Commission and City Council has ensured the project architecture is distinctive and attractive. The building is 'bunkered' into the hillside and will present a low, one-story profile to Pleasant Hill Road, softened by new landscape screening.

Policy LU-5.1 Residential Entryways: Residential entryways to the City should be distinctive and attractive features of the City's landscape.

Program LU-5.1.1: Install aesthetically pleasing City identification signs at Acalanes Road, Happy Valley Road, Moraga Road, St. Mary's Road, Reliez Valley Road, Pleasant Hill Road, and Olympic Boulevard.

Program LU-5.1.2: Prepare a specific plan for the following entryways and establish appropriate design guidelines: Acalanes Road, Mt. Diablo Boulevard from Acalanes Road to Risa Road, and Pleasant Hill Road. Consider preserving the northwest corner of Pleasant Hill Road and Highway 24 in as natural a state as possible. These plans should seek to:

1) Incorporate design features that create a semi-rural atmosphere,
~~The subject property is not semi-rural in character. It~~ The site is a sloping site fully surrounded by existing development, with a freeway off-ramp to the north, single-family residences to the south and east, and multiple-family residential apartments and condominiums to the west.

2) preserve prominent views by limiting the height of development, where necessary,
The project is not within a "prominent view." The overall height of the structure is mitigated by the structure being sited relatively low on the site and bunkered into the hillside. Nonetheless, the calculated height of the structure, which starts 5-ft. below the ground and goes to the highest roof plane, is 43-ft. The project is seeking a General Plan Amendment to allow the increased height over the 35-ft. permitted in the R-15 zoning district.

3) provide distinctive native landscaping, and
The project includes native and non-native landscaping for aesthetics and visual screening.

4) increase setbacks from the street.
The project is set back over 250-ft. from Mt. Diablo Boulevard and over 300-ft. from Pleasant Hill Road.

Goal LU-6: Assure that the Land Use Map and other General Plan standards are applied consistent with applicable laws including the California and U.S. Constitutions.

Policy LU-6.1 Appropriate Density: Assure that areas formerly designated at a greater maximum number of dwelling units per acre that are now designated "Rural Residential" by the General Plan have the opportunity to seek a density consistent with the California and U.S. Constitutions.
Not applicable to this project.

Program LU-6.1.1 Adopt an administrative procedure that provides for a review of appropriate density at the request of persons owning property in areas designated "Rural Residential" and limited to a maximum density of 0.1 dwelling units per acre.
Not applicable to this project.

Program LU-6.1.2: Prior to re-designating any property to Rural Residential-5, a CEQA review will be required to determine if development of the property would result in additional site specific or cumulative impacts not assessed in the EIR prepared for the General Plan. All proposed re-designations shall comply with CEQA prior to approval.
Not applicable to this project.

COMMERCIAL LAND USES

Goal LU-7 Encourage Downtown development which is attractive and enhances Lafayette's community identity and small town character.
The project continues the existing multiple-family residential apartments and condominiums land uses already existing on Mt. Diablo Court. The Project Architect is highly capable and has incorporated many techniques in order to align the design with the City's adopted Residential Design Review Guidelines (RDRGs). (The Architect and staff fully acknowledge that the RDRG's apply only to single-family residential development, however many of the concepts contained therein can be applied to multiple-family residential and commercial buildings as well, e.g. increased setbacks for upper stories, articulation, dark colors, etc.). The Planning Commission and City Council were previously concerned about the apparent height, bulk, and mass of the project. However, the Planning Commission finds that the reduction of the project from a 3-story, 28-unit project to a 2-story, ~~20~~18-unit project has adequately addressed those concerns.

Policy LU-7.1 Design: Ensure that site planning, architecture, color, materials and landscaping contribute to the community identity and small town character.
The project continues the existing multiple-family residential apartments and condominiums land uses already existing on Mt. Diablo Court. The building is sited toward the north central portion of the site, well away and below single-family residences on adjacent parcels to the south. The project proposes a subdued earth tone color palette and two finishes of cement plaster. Landscaping proposed around the perimeter of the project will serve to screen the building as time goes on.

Program LU-7.1.1: Require design review approval of commercial development proposals to ensure high-quality, cohesive, and compatible building and site design.
The project has been reviewed by the Design Review Commission which is recommending approval of the use and general site design, bulk, mass and architecture.

Policy LU-7.2 Lighting: Use lighting to develop a sense of security and enhance architecture. Lighting should not overpower the surrounding environment.
The Design Review Commission will review the lighting details for the project. Staff recommends use of fully shielded source light fixtures to mitigate bright spots and light spillage.

Policy LU-7.3 Public Spaces: Enhance the appearance of the downtown with well-designed public spaces.
The project is not publicly accessible and does not propose any publicly accessible spaces. Should the project be approved in some form, staff is recommending a condition of approval that requires the developer to provide an access easement along the CalTrans right-of-way for a future pedestrian connection between Mt. Diablo Court and Pleasant Hill Road.

Program LU-7.3.1: Implement the Downtown Street Improvement Master Plan.
Any off-site improvements on Mt. Diablo Boulevard or Mt. Diablo Court will be reviewed by the Downtown Street Improvement Master Plan Implementation Committee for compliance with the Master Plan.

Policy LU-7.4 Signs: Ensure that signs contribute to the attractiveness of downtown.
The project will have a sign to identify the name of the condominiums, which will not be visible from Mt. Diablo Boulevard or Pleasant Hill Road. The sign will only be visible from the end of Mt. Diablo Court in order to identify the residences to visitors. The Design Review Commission's review of the sign will ensure an attractive design.

Policy LU-7.5 Commercial Entryways: Commercial entryways to the City should be distinctive and attractive and should convey a positive image of the community.

Entryways are the visual doorways to the community. They make a powerful impression on residents and visitors alike. The commercial entryways are at the city's central freeway off-ramps at Oak Hill Road and First Street, the Lafayette BART station and the east end of Mt. Diablo Boulevard. Map I-2 Entryways shows the location of Lafayette's entryways. They should be distinctive and attractive, establishing a positive image of the community.

This policy is not applicable to this project, since the project is not situated near a commercial entryway.

Program LU-7.5.1: Establish and implement entryway designs which convey the qualities of the community.

Policy LU-7.6 Creek Restoration: Preserve and reclaim the creeks in the downtown area; Happy Valley Creek as a primary visual corridor from the BART Station to Mt. Diablo Boulevard, and Lafayette Creek as a local visual corridor, south of Golden Gate Way.
This policy is not applicable to this project, since the project is not situated near the downtown or near a creek.

Policy LU-7.7 Scenic Views: Preserve scenic views of Mt. Diablo and hillsides from Downtown Lafayette.
While it is not possible to entirely prevent some blockage of scenic views downtown, it is important to preserve intermittent views of the surrounding hillsides and ridges from Mt. Diablo Boulevard. Scenic views can be preserved by maintaining a variety of building heights, providing open view corridors between buildings, and utilizing setbacks and building height limits.
The project is designed so that the highest roof ridge is below the finished floor level of the residences to the south, thus preserving their outward views to the hills on the north side of Highway 24. The property owner to the south can only see the project by looking down at it.

Goal LU-8 **Enhance commercial vitality and encourage a variety of businesses Downtown.**
This goal is not applicable because it is a residential, not commercial project.

Goal LU-9 **Maintain the Downtown as a convenient and safe commercial area, which enhances the tax base and serves the shopping and business needs of the local region.**
This policy is not applicable to this project

Goal LU-10 **Downtown Core: Encourage a concentration of pedestrian friendly retail uses and improve the appearance and identity of the Downtown Core.**
This policy is not applicable to this project

Goal LU-11 **East End Commercial: Improve the function, identity and appearance of the East End Commercial Area.**

Policy LU 11.1 Long-Range Vision: A long-range vision for the East End Commercial Area will guide the establishment of zoning regulations and the review of site-specific development projects.
This policy is not applicable to this project.

Program LU-11.1.1: Develop a long-range plan that establishes a vision for the future of the East End Commercial Area, based on the community's overall vision for Lafayette, its vision for the Downtown Core, and on future trends in commercial, retail and auto-oriented land use activities.
This policy is not applicable to this project.

Program LU 11.1.2: Modify zoning regulations for the East End Commercial Area to implement a long-range plan.
This policy is not applicable to this project.

Policy LU-11.2 Street Design of the East End: Consider changes to the street design to improve the safety, appearance, and operation of Mt. Diablo Boulevard within the East End Commercial area.
If the project is approved and constructed, it will improve the safety, appearance, and operation of Mt. Diablo Boulevard in the East End through construction of off-site improvements required by the Development Agreement. These include new landscape

medians, contribution toward / installation of a new traffic signal at the intersection of Mt. Diablo Boulevard and Mt. Diablo Court and completion of the pedestrian sidewalk from the existing sidewalk just east of the Lafayette Park Hotel to the existing sidewalk just west of the Hungry Hunter.

Program LU-11.2.1: Consider modifying Mt. Diablo Boulevard between Carol Lane to Pleasant Hill Road to control traffic speeds, provide additional public parking and to facilitate bicycle and pedestrian circulation.
The project will improve the safety, appearance, and operation of Mt. Diablo Boulevard in the East End through construction of new landscape medians, completion of the pedestrian sidewalk, and installation of a new traffic signal at the intersection of Mt. Diablo Boulevard and Mt. Diablo Court. No bicycle-specific improvements are proposed.

Program LU-11.2.2: Enhance the aesthetic quality and design of the streetscape by providing landscaped medians or planting strips with trees, specialty lighting fixtures, sign and other design features which mitigate the adverse aesthetic impact associated with a wide street design.
The project will improve the safety, appearance, and operation of Mt. Diablo Boulevard in the East End through construction of new landscape medians, completion of the pedestrian sidewalk, and installation of a new traffic signal at the intersection of Mt. Diablo Boulevard and Mt. Diablo Court. The project will also contribute to the design and construction of a passive park/landscaping of excess public right-of-way at the southwest corner of Mt. Diablo Boulevard and Mt. Diablo Court.

Policy LU-11.3 Residential Uses: Preserve the existing multi-family residential uses in this area, where practicable.
The project does not preserve the existing multi-family residential uses in the area, but instead provides for new multi-family residential dwelling units.

Goal LU-12 **West End Commercial: Strengthen the West End Commercial area as an office commercial district with related support services.**
This goal is not applicable to the project.

CIRCULATION AND PARKING

Policy C-4.1 Balance Circulation and Land Use Patterns: Limit development to that which can be adequately served by Lafayette's circulation system.
The transportation study prepared for this project concludes that the project can be adequately served by the City's circulation system. The City is requiring the developer to install off-site improvements including segments of sidewalk that will fill existing gaps in the pedestrian circulation system.

Program C-4.1.1 Require applicants for new development to demonstrate that there is adequate transportation capacity to handle the additional traffic their project would generate. Evaluate area-wide cumulative traffic impacts as well as the impacts of any proposed mitigations in development review.
The transportation study prepared for this project finds that there is adequate transportation capacity to handle the additional traffic their project would generate. The Project has been referred to the City Engineer, Consulting Traffic Engineer, Transportation Planner, Circulation Commission and the Lamorinda Project Management Committee.

Program C-4.1.2 Consider transit-oriented developments, which are consistent with the goals and policies of the General Plan.
The project is located within walking distance of public transit on Mt. Diablo Boulevard – County Connection Route 206.

Program C-4.1.3 Approval of development expected to generate over 50 peak hour vehicle trips shall occur only if found to be consistent with Lafayette's growth management goals and the other goals and policies of the General Plan.
The transportation study prepared for this project finds that the project will not generate more than 50 peak hour trips. The project was referred to the Lamorinda Project Management Committee for consistency with the Lamorinda Action Plan.

Policy C-4.2 Traffic Mitigation: Require new developments to pay their fair share of circulation improvements.
The City is requiring the developer to install off-site improvements including segments of sidewalk that will fill existing gaps in the pedestrian circulation system as well as a three-way traffic signal at Mt. Diablo Boulevard and Mt. Diablo Court.

Program C-4.2.1 Ensure that new development mitigates its off-site adverse impacts on the circulation system and, if applicable, contributes to a citywide traffic mitigation fee program.
See Policy C-4.2 above. In addition, each new dwelling unit in the project will be required to pay the sub-regional traffic mitigation fee collected by the Lamorinda Fee and Finance Authority.

Program C-4.2.2 Ensure that new developments provide adequate on-site improvements, such as delivery access, on-site vehicle, bicycle and pedestrian circulation amenities, public transit facilities, and off-street parking, as appropriate.
The project satisfies its parking requirements through the provision of off-street parking provided in a parking garage below the living space. Bicycle racks will be provided for residents and visitors. The Circulation Commission requested that the applicant consider providing bicycle lockers for residents. The Design Review Commission requested modifications to the entry drive to accommodate large vehicles like moving vans and delivery trucks.

Program C-8.2.3 Require adequate bicycle parking in new commercial developments, and at the BART station. Encourage adequate bicycle parking in commercial areas.
Bicycle racks will be provided for residents and visitors. The Circulation Commission requested that the applicant consider providing bicycle lockers for residents.

Program C-9.2.1 Provide enhancements and amenities to better accommodate the needs of persons with disabilities to facilitate their safe and efficient movement on sidewalks, walkways and in public facilities. This could include smooth surfaces, ample width, curb cuts and benches.
The City is requiring the developer to install off-site improvements including segments of sidewalk that will fill existing gaps in the pedestrian circulation system.

OPEN SPACE AND CONSERVATION

Goals OS-6, 7, 8, 9, 10, 11 Goals addressing water quality, soils, water conservation, solid waste reduction, air quality and energy conservation.
The project will be required to meet the standards set forth in the city, state and federal codes relating to these items.

SAFETY

Goals S-1, S-2, S-3, S-4, S-5, S-7, S-8 Goals addressing landslides, seismic hazards, flood hazards, fire hazards, hazardous materials, police services, and emergency preparedness.
The project will be required to meet the standards set forth in the city, state and federal codes relating to these items.

NOISE

Goals N-1, N-2 Goals addressing noise.
The project will be required to meet the standards set forth in the city's noise ordinance.

GROWTH MANAGEMENT

Chapter VIII of the General Plan Goals addressing growth management standards.
The project will be required to meet the standards set forth in the city's growth management standards.

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

An Ordinance of the City Council of the City of Lafayette to change the zoning from Single-Family Residential District 15 (R-15) to Multiple-Family Residential District-A (MRA) and approve a Development Agreement for Lafayette Park Terrace, ~~a 20-unit~~ an 18-unit condominium project on 2-acres located at 3235 Mt. Diablo Ct. APNs 233-131-020 & 233-131-022	)	Ordinance No. 580

WHEREAS, in April 2005**,** Bruce Torquemada filed an application on behalf of Lafayette Properties (Owner), to construct a multiple-family residential condominium project more specifically described as follows, (hereafter the "Project"):

GP01-05 BRUCE TORQUEMADA, LAFAYETTE PROPERTIES, (APPLICANT & OWNER), R-15 ZONING, REQUESTS FOR:

(1) General Plan Amendment to change the land use designation from Medium Density Single-Family Residential (up to 6 dwelling units per acre) to Low Density Multiply-Family Residential (up to 17 dwelling units per acres) and to allow a residential building up to 43-ft. in height;
(2) Rezoning the subject property from Single-Family Residential District 15 (R-15) to Multiple-Family Residential District-A (MRA);
(3) Vesting Tentative Map to create ~~20~~ 18 condominiums and common area; and
(4) Design Review approval of the project including the approximately 32,000 sq.ft. residential condominium building with approximately 20,000 sq.ft. underground parking garage
(5) Tree Permit to remove protected trees associated with the development project
(6) Grading Permit to grade an estimated 20,000 cubic yards of earth
(7) Development Agreement
(8) Consideration of adoption of a Mitigated Negative Declaration of Environmental Impacts.

The project site is 2-acres located at 3235 Mt. Diablo Ct. APNs: 233-131-020 & 022

WHEREAS, the action of the City Council of the City of Lafayette ("City Council") on the General Plan Amendment, vesting tentative map, design review, tree permit and grading permit can be found in City Council Resolution 2008-035; and

WHEREAS, on April 17, 2008 and May 15, 2008, in addition to multiple prior occasions as shown in the public record, the Planning Commission of the City of Lafayette ("Planning Commission") conducted duly noticed public hearings to consider the request to change the zoning from Single-Family Residential District 15 (R-15) to Multiple-Family Residential District-A (MRA) ("Rezoning") and the Development Agreement for approximately 2-acres of real property located at 3235 Mt. Diablo Court, Lafayette, California. Assessor's Parcel Numbers 233-131-020 & 233-131-022; and

WHEREAS, on April 17, 2008 and May 15, 2008, the Planning Commission based its recommendation to approve the Rezoning and Development Agreement on its findings and recommendation to adopt the Mitigated Negative Declaration in compliance with the California Environmental Quality Act, certain conditions of approval as outlined in City Council Resolution 2008-035 and the findings set forth

below; and

WHEREAS, on July 14, 2008, July 28, 2008 and September 22, 2008, the City Council conducted ~~a~~ duly noticed public hearings on the Rezoning and Development Agreement, at which time all persons wishing to testify in connection with the Project were heard and the Project was fully studied.

NOW THEREFORE BE IT RESOLVED THAT:

SECTION 1. Rezoning. Based on the entire record before the City Council, all written and oral evidence presented to the City Council, and the findings made in this Ordinance, the real property described in the legal description set forth in Exhibit "B," comprising approximately 2-acres of real property located at 3235 Mt. Diablo Court, in the City of Lafayette, California. ("Property"), is hereby rezoned from Single-Family Residential District 15 (R-15) to Multiple-Family Residential District-A (MRA), as that zone is described in Chapter 6-8 of Title 6 of the Lafayette Municipal Code.

SECTION 2. Rezoning Findings. Pursuant to Lafayette Municipal Code §6-213 and based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council hereby makes and adopts the following findings:

A. The change proposed is consistent with the General Plan and each element of it.
The proposed Rezoning is consistent with the General Plan and each element of it as detailed in Exhibit "A" General Plan Consistency Evaluation *attached to this Ordinance.*

B. Community need is demonstrated for the change proposed.
A stated goal in the General Plan is to provide adequate housing stock for all segments of the community. As the costs of land, construction and single-family residences rise, there is a need for smaller owner-occupied multiple-family residential units within the city. Condominiums can serve as starter homes for young couples or as smaller homes for "empty nesters" who wish to downsize while remaining in Lafayette. The project will also increase the affordable housing stock expressly reserved for those with moderate or low income levels.

SECTION 3. Development Agreement Findings. Pursuant to California Government Code §65867.5 and based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council hereby makes and adopts the following findings:

A. That the Development Agreement promotes the public health, safety and welfare of the community. *The Development Agreement promotes the public health, safety and welfare of the community because it requires the developer, among other things, to install a traffic signal, medians and a sidewalk on Mt. Diablo Boulevard improving vehicular and pedestrian safety. The Project has been evaluated pursuant to the California Environmental Quality Act (CEQA) and it has been determined that the Project, with mitigations, will not have any significant impacts on the environment.*

B. That the Development Agreement is consistent with City's General Plan.
The Development Agreement is consistent with the city's General Plan, as amended, because it increases the City's housing stock available to all segments of community, including three income restricted affordable housing units. The Development Agreement requires the Developer to install off site improvements like a traffic signal, medians and sidewalk, and to provide and easement that can be used for future non-vehicular connection between Mt. Diablo Court and Pleasant Hill Road. The Project has been evaluated in detail in the General Plan Consistency Evaluation *attached to this ordinance.*

SECTION 4. CEQA. The City Council hereby finds that the environmental effects of the Rezoning and Development Agreement have been thoroughly analyzed in the Mitigated Negative Declaration accompanying the General Plan Amendment in City Council Resolution No. 2008-035. No additional environmental review is necessary under the California Environmental Quality Act.

SECTION 5 . Zoning Map. The Planning and Building Services Manager shall modify the Official Zoning Map of the City of Lafayette in accordance with this Ordinance to indicate thereon the zoning applicable to the Property.

SECTION 6. Effective Date. This Ordinance becomes effective thirty (30) days after its adoption.

SECTION 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

SECTION 7. Publication. The City Clerk shall either (a) have this ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, or (b) have a summary of this ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption.

The foregoing ordinance was introduced at a meeting of the City Council of the City of Lafayette held on ~~July 14, 2008~~September 22, 2008, and was adopted and ordered published at a meeting of the City Council held on ~~July 28, 2008~~ October 14, 2008 by the following vote:

PASSED AND ADOPTED by the City Council of the City of Lafayette at a regular meeting of said Council on ~~July 28, 2008~~October 14, 2008, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

_____
Joanne Robbins, City Clerk

APPROVED:

_____
Mike Anderson, Mayor

ATTACHED
Exhibit A: General Plan Consistency Evaluation
Exhibit B: Legal Description of the Property
Exhibit C: Development Agreement